APPENDIX

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In the Supreme Court of the United States

OCTOBER TERM, 1976

Nos. 75-909, 75-960, 75-1050 and 75-1055

ENVIRONMENTAL PROTECTION AGENCY,
Petitioner

—*v.*—

EDMUND G. BROWN, GOVERNOR OF THE STATE OF CALIFORNIA, ET AL.,

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ON WRITS OF CERTIORARI TO THE UNITED STATES COURTS OF APPEALS FOR THE NINTH, FOURTH AND DISTRICT OF COLUMBIA CIRCUITS

PETITIONS FOR CERTIORARI FILED DECEMBER 24, 1975, JANUARY 7, 1976 AND JANUARY 26, 1976
CERTIORARI GRANTED JUNE 1, 1976

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PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Arizona Transportation Control Plan

This rulemaking sets forth a transportation control plan for the Phoenix-Tucson Intrastate Air Quality Control Region (the "Region"). A General Preamble was published on November 6, 1973, in the FEDERAL REGISTER (38 FR 30626) and is incorporated herein by reference.

On March 20, 1973, the Administrator, acting in response to a court order, notified the Governor of Arizona that a transportation control plan for the Region should be submitted by April 15, 1973. On April 11, 1973, the State of Arizona submitted a proposed implementation plan control strategy to the Administrator. This plan demonstrated attainment of the oxidant standard by May 31, 1975. However, although several of the strategies included to control carbon monoxide were approvable in concept, they were not set forth in the required regulatory detail. Accordingly, on June 15, 1973, the Administrator disapproved the plan (38 FR 16555, June 22, 1973).

Because the Administrator disapproved the Arizona control strategies for carbon monoxide, the Administrator was required, under section 11(c) of the Clean Air Act, to propose and subsequently promulgate regulations setting forth substitute measures. Regulations for the attainment and maintenance of the national standards for carbon monoxide were proposed by the Administrator in the FEDERAL REGISTER of July 16, 1973 (38 FR 18942). Public hearings were held on the proposed regulations in Tucson on September 10 and 11, 1973, and in Phoenix on September 12 and 13, 1973.

The Governor of Arizona submitted a revised implementation plan control strategy on September 11, 1973. Notice of receipt of the revised Arizona plan was published in the FEDERAL REGISTER on October 26, 1973 (38 FR 29607). This notice was issued to solicit public comment on the plan prior to the Administrator's approval/disapproval decision. The closing date for public comment is November 16, 1973, which is also the deadline established by the Court of Appeals for promulgation of EPA's Arizona transportation control plan. Consequently, today's promulgation cannot be delayed to review public comment received on or near the closing date for comment.

The Administrator has reviewed the revised Arizona plan, supplemental information, and public comment received to date and finds that the inspection/maintenance and retrofit control measures are, for the most part, approvable as specified herein. Therefore, the Administrator has approved these measures with exceptions and conditions. Upon receipt of the remaining public comment, if any, the Administrator will issue an evaluation report of the Arizona plan and, if necessary, amend this approval and promulgation.

AIR POLLUTION IN THE PHOENIX-TUCSON REGION

Natural features. The Phoenix-Tucson Region is composed of the five Arizona counties of Maricopa, Gila, Pinal, Pima, and Santa Cruz. A total of 1,431,954 people reside in this region, 80.8 percent of the total state population. The region encompasses 29,753 square miles, 26.2 percent of the total state area. There are two major urban areas within the region: Metropolitan Phoenix in Maricopa County and metropolitan Tucson in Pima County. These areas contain 87.5 percent of the region's population. Both metropolitan areas are located at the northeast edge of the southwestern desert, which comprises about a third of the state and is typified by low mountain ranges and desert valleys. Phoenix and Tucson

are located about 120 miles apart with the elevation of Phoenix being 1117 feet and of Tucson, 2410 feet.

The climate of the two major metropolitan areas is quite similar, although Tucson temperatures are normally somewhat cooler because of its elevation. Tucson also has more rainfall. Both areas have a large number of days with clear skies and an abundance of sunshine. Average wind speeds in Tucson tend to be slightly higher than in Phoenix.

In the southwest desert areas where clear skies predominate, rapid heating of the surface occurs during the daytime. This rapid heating, in turn, produces an unstable atmospheric condition with good dispersion. Clear skies at night allow rapid cooling and lead to the formation of surface-based inversions.

Because of the longer nights and increased cooling, these inversions are stronger and more persistent in the winter than in the summer. National Weather Service records indicate that radiation inversions can be expected on about two-thirds of the winter nights. Low wind speeds appear to occur more frequently during the night, and the combination of surface inversions and light winds produces the stable atmospheric conditions that are conducive to the accumulation of pollutants near the ground.

Maricopa County records indicate that the highest carbon monoxide concentrations occur during the night in the winter months. This coincides with the period of highest frequency of stable radiation inversion conditions. Both the maximum 1-hour concentration and the maximum 8-hour concentration usually occur between 6:00 p.m. and midnight. In addition to the stable atmospheric conditions during these hours, traffic counts, using October as an example, indicate that there is more traffic in the 5-hour period centered around the evening peak hour (4:00 to 5:00 p.m.) than in the similar 5-hour period centered around the morning peak (7:00 to 8:00 a.m.). High carbon monoxide concentrations do occur during the morning traffic peak period; these concentrations, however, are generally short-lived because the atmosphere is rapidly becoming unstable because of daytime heating.

Thus, it would appear that high concentrations of carbon monoxide in these area are a function not only of total emissions, but also of the meteorological conditions that exist during the periods of highest emissions.

It should be noted that the dispersive characteristics of unstable midday atmospheric conditions could be used to reduce high evening carbon monoxide concentrations if measures were adopted that caused the evening peak traffic to occur earlier. The shifted emissions would then occur during a period of good dispersion. To help achieve this shift, employers could reschedule the work shift so that quitting time occurs at 3 p.m. Also, work hours staggered toward an earlier quitting time by a significant number of employers would shift the emissions and, in addition, lessen traffic congestion, which is a source of increased emissions due to stop and go operation. Use of daylight savings time during the winter months would effectively shift peak evening traffic 1 hour earlier with respect to the time of the nondispersive nighttime conditions. Such a measure would also result in significant energy savings.

Air quality monitoring in the region by the Maricopa County Health Department has consisted of one station located in Phoenix. At various times the Arizona Division of Air Pollution Control (DAPC) has in addition monitored air quality at different locations throughout the State using mobile equipment. The data from the mobile monitoring equipment cover short periods (24-hour periods to 4-month periods); the station located in central Phoenix has recorded data continuously since 1967. There has been no continuous air quality monitoring in the metropolitan Tucson area until recently when two monitoring sites were activated in a cooperative program between Arizona DAPC and Pima County Health Department. The State is in the process of procuring five additional carbon monoxide monitors for Phoenix. These monitors were funded by EPA and will be operated by the Maricopa County Health Department. Air quality data for 1 year, or at least for the seasonal period when high concentrations would normally be expected to occur, is required for analysis and selection of carbon monoxide control strategies. The only data available of sufficient duration to permit strategy calculations are those from the central Phoenix monitoring station.

The second highest 1-hour and 8-hour carbon monoxide concentration recorded in 1971 in the Phoenix-Tucson AQCR were 43.5 mg/m³ and 29.36 mg/m³. Use of a proportional rollback technique indicates that control measures adequate to ensure attainment of the 8-hour national carbon monoxide standard (10 mg/m³) will also ensure meeting the 1-hour standard (40 mg/m³). Rollback calculations show that a 66 percent reduction from 1971 carbon monoxide emissions is required to meet the national 8-hour standard.

The second highest 1-hour average concentration of photochemical oxidants recorded in the Phoenix-Tucson AQCR for the base year 1971 was 236 μg/m³. Using the relationship between hydrocarbon emissions and ambient photochemical oxidant concentrations as defined in Appendix J, 40 CFR Part 51, a 31 percent reduction from 1971 hydrocarbon emissions is required to meet the national standard of 160 μg/m³.

Information presented in the State Plan and in the EPA Technical Support Document (which is available at the Office of Public Affairs, EPA Region IX, 100 California Street, San Francisco, California 94111, and at the Freedom of Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460) shows that the anticipated decrease in motor vehicle hydrocarbon emissions as a result of the Federal Motor Vehicle Control Program and the decrease due to approved controls on stationary sources of hydrocarbons will be sufficient to meet the national standard by May 31, 1975, and to maintain the standard through 1980. Attainment of the carbon monoxide standards will not be achieved by these controls. Consequently, supplementary controls are required, and, since mobile sources will account for approximately 93 percent of the carbon monoxide emissions, additional controls on mobile sources are required.

State Transportation Control Plan

As noted previously, the State of Arizona submitted a transportation control plan on April 11, 1973.

Arizona's control strategy included provisions for mandatory annual inspection and maintenance on all light, medium, and heavy duty vehicles, the use of retrofit devices on pre-1976 vehicles, and the conversion of 10,000 vehicles to liquid petroleum gasoline.

The State plan concluded that these measures would achieve emission reductions sufficient to attain the standard. However, EPA analysis, presented in the EPA Evaluation Report, indicated that excessive emission reductions were claimed, and that, in fact, these measures were not sufficient to show attainment of the standard. Consequently, additional measures, which control vehicle usage and consequently total emissions from the vehicle population at large, were considered necessary. EPA calculated that the additional emissions reduction necessary to show attainment of the standard could be achieved with a 32 percent reduction in total vehicle miles traveled (VMT).

The difference between EPA estimates and those of the State centered primarily around the applicability and effectiveness of the catalyst retrofit. EPA's analysis did not support the State's claim that 100 percent of the 1968-1974 autos could be readily retrofitted with the catalyst. Not all vehicles in this age class can operate on the unleaded fuel necessary for catalyst function. Considering this limiting factor, EPA estimated that only 20 percent of 1968-1970 vehicles and 75 percent of the 1971-1974 vehicles could be retrofitted with catalyst converters (See An EPA White Paper: The Clean Air Act and Transportation Controls).

For the most part, reductions attainable by the remaining control measures of the State plan were considered realistic and generally approvable.

The transportation control plan, however, lacked the necessary procedures for enforcement and administration. Specifically, the State does not have legal authority for its inspection/maintenance program; there are no

regulations and administrative procedures for either inspection/maintenance or the retrofit program; and there is no monitoring and surveillance program. Similarly, the transportation control plan does not indicate that adequate resources have been allocated by the State for implementation of these measures.

On September 11, 1973, the Governor of the State of Arizona submitted a revised transportation control plan that included significant modifications to the earlier State plan.

The inspection maintenance program was essentially reproposed: however, the revised plan contained a claim that the post-maintenance deterioration curve is more realistic than EPA's, and that, as a result, the program could achieve a 22 percent reduction in carbon monoxide emissions rather than the 12 percent allowed by EPA. EPA had assumed the deterioration to be linear as a function of time, while the State indicated that the emission-reducing effectiveness of maintenance would not be gin to deteriorate until much later in the post-maintenance year, thus yielding higher overall emission reductions than would be assumed in a linear deterioration. Based on the analysis of data contained in the EPA Technical Support Document and data referenced by the Arizona Plan, EPA does not believe that the 22 percent reduction claimed by Arizona can be supported at this time.

The State's retrofit program was substantially modified. The use of oxidizing catalyst converters was restricted to 1973-1975 vehicles in accordance with EPA's information on the poor applicability of such devices to older vehicles. Application of the air bleed to the intake manifold device was reproposed for pre-1968 model years. Finally, the State proposed the application of a new air bleed/exhaust gas recirculation device on all 1968-1972 vehicles. The data do not support the applicability of this device on 1972 vehicles, and EPA cannot accept emission reductions attributed to that model year. The State is encouraged to evaluate possible retrofit alternatives.

In short, the revised State plan demonstrate [sic] better compatibility between retrofit devices and vehicles of each model year. Consequently, EPA can accept greater emission reductions for the State plan. However, as with the initial State plan, these measures are not sufficient to show attainment of the standard; the necessity for VMT reduction remains. Although the revised plan originally did not include any control measures for VMT reduction, the Governor acknowledged in his letter accompanying the plan that reasonable interim measures to reduce VMT must be adopted. Subsequent submittals on September 21 and October 2, 1973, indicated that the Governor's special task force is vigorously encouraging business and local government to develop carpool incentives; also being developed are parking restrictions, improvements in the public transit system, and traffic flow improvements.

EPA acknowledges that such measures are promising, and that the potential for substantial progress exists. Further, EPA recognizes the firm commitment on the part of State and local government to fully develop and implement such control strategies. At this point, however, some of Arizona's interim strategies have not been formulated to the point at which EPA can evaluate their effectiveness in reducing VMT, and, ultimately, carbon monoxide emissions.

Finally, the revised State plan, like the earlier version, lacks the necessary procedures for enforcement and administration, and adequate resources for effective implementation. Until this is done, EPA is promulgating the regulations, necessary to make the program submitted by the State effective. However, EPA is confident that the State will adopt whatever measures are necessary to carry out its program to a successful conclusion.

Proposed EPA Transportation Control Plan

In the Federal Register of July 16, 1973, the EPA proposed substitute regulations to show attainment of the carbon monoxide standard. Recognizing the effort and

progress made by Arizona in its inspection/maintenance retrofits program, the Administrator incorporated these individual control measures into EPA's proposal as viable measures to reduce vehicle emissions, and proposed them in accordance with the schedule set forth in the State plan. However, as these control measures were not sufficient to show attainment of the standard, EPA proposed additional measures designed to achieve the 32 percent reduction in VMT, which EPA considered necessary to attain the standard. EPA's proposal measures included bus/carpool lanes on freeways and major streets, 20 percent reduction in off-street public parking, and limitations on the construction of additional parking facilities—all supplemented by the required availability of a computer-aided carpool- and buspool-matching system. The intent of these measures was to discourage individual use of private vehicles. EPA calculated that these measures could increase the occupancy factor for work-oriented trips by 50 to 75 percent, and thereby reduce VMT by 10 to 15 percent by 1975.

To assure that this VMT reduction is achieved and to achieve an additional 10 to 15 percent reduction by 1977, EPA proposed to limit gasoline consumption (at the distributor level) to 1972-1973 levels, and to limit the motorcycle population to projected 1975 levels. The gasoline limitation was designed to retard the very rapid VMT growth expected after 1975; the restriction on motorcycle population was designed to prevent counter-productive shifts from automobiles to highly polluting motorcycles as a result of gasoline limitations and parking bans.

The measures proposed by EPA to control VMT were sufficient to demonstrate attainment of the standard. However, the inspection/maintenance and retrofit programs could not be implemented in time to meet the standards by 1975; therefore, a 2-year extension was necessary. To satisfy the remaining legal requirements for such an extension, the control strategy must consider reasonably available control measures for implementation as expeditiously as practicable. At the time the

EPA plan was proposed, the VMT reduction measures previously discussed were considered to be reasonably available control measures and sufficient to satisfy the requirements for a 2-year extension.

PUBLIC COMMENT

The EPA hearings in Phoenix and Tucson elicited substantial public comment regarding the control measures proposed by EPA; also, the State of Arizona used the hearings as an opportunity to present its revised transportation control plan. The State also affirmed its commitment to develop and implement effective VMT reduction measures.

Comments were received from a wide range of sources—regional and municipal governments, industry, civic organizations, environmental groups, and individual citizens. Generally, EPA's proposal for the State's inspection/maintenance and retrofit programs received solid support. However, EPA's VMT control measures received generally adverse comment. Many stated that such proposals were unrealistic in view of the area's high degree of dependence on automobiles and lack of alternative modes of transportation.

The workability of the measure for exclusive bus/carpool lanes was doubted. The point was made that without an expanded bus system, exclusive bus lanes would serve no beneficial purpose and that almost no streets could support viable bus lanes. Additional comments were received criticizing the inadequacy and inconvenience of the existing transit systems in both Phoenix and Tucson. Although representatives of these cities spoke of improvements in scheduling and expansion of the service area, commitments for purchase of buses for increasing the existing transit capacity system during the commuting period have not been made. Testimony indicated that the Phoenix bus system is presently at capacity during the commuting period. Substantial comment was received encouraging and supporting carpooling for commuters as the best solution to reduce VMT and congestion, particularly in the absence of a viable transit system.

The required availability of a voluntary computer-aided bus/carpool matching system, which was included in the revised State plan, was generally accepted. Several on-going programs for assisting employees to locate and form carpools were noted.

The parking reduction measure was criticized as having potentially adverse effects on downtown business. Similarly, the parking review proposal was thought to have adverse economic effects. In particular, it was said that such a regulation might threaten the growth of the central business district and the proposed Sky Harbor Airport expansion. Comments received on parking review proposals in other regions stated that EPA should allow state and local organizations the option of developing a parking management supply plan capable of achieving results that were equivalent to the proposed source-by-source review.

Restrictions on the ownership of motorcycles were opposed. Spokesmen for the motorcycle industry requested that EPA establish emission standards for motorcycles. Comment was added that if EPA should set such standards, any problem of motorcycles emissions would be substantially diminished.

Any limitations on the amount of gasoline sold were exposed. The possible adverse impact on agricultural operations was cited. Further, the reduction or control would drastically affect the growth economy, and would not accommodate a continuation of the unprecedented growth that occurred over the last several years.

Environmental groups in both cities generally supported EPA's proposals, and often suggested additional measures such as bicycle paths, mass transit improvements, and land-use controls. One spokesman concluded his statement with words that generally reflect the tenor of the testimony: "Any regulation adopted must have the support of the public."

Considerable comments was received on the applicability of the EPA proposal to the entire Region. The point was made that it can not be shown that there are violations of the national standard in the many communities

spread across the five-county region and that auto usage in these communities also could not be shown to contribute to the air pollution problems of Phoenix and Tucson. Therefore, transportation control measures should only apply to the Phoenix and Tucson Metropolitan Areas not the five-county region.

The fact that the amount of reduction for Tucson was based on Phoenix data because of the lack of air quality data for Tucson was of concern to a significant number of those testifying at the hearing in Tucson. Data derived from monitoring during the summer months of 1973 in Tucson and from use of atmospheric diffusion models was presented by the Pima County Air Pollution Control District. These data show that in 1977 the 8-hour carbon monoxide standard would be substantially exceeded. The value derived for the maximum 8-hour concentration in 1977 was 21 mg/m^3.

A transportation control plan also designed to attain the standard by 1977 was submitted by the Pima County Air Pollution Control District at EPA's hearing in Tucson.

This plan relied on the measures in the State plan (namely inspection/maintenance and retrofit) and included increasing the use of carpools, increasing bus service, implementing a computerized traffic control system, instigating a public education effort, and implementing a continuous air quality monitoring program.

Transportation Control Plan

The EPA promulgation is a combination of approval of the Arizona Plan, and promulgation of portions of the EPA proposal as modified by the revised State plan and by testimony received at the hearings. EPA is taking action to approve the plan proposed by the State, specifically, the inspection/maintenance, retrofit, employer incentive, and carpool matching programs; simultaneously, EPA is promulgating certain requirements to assure the effectiveness and implementation of the approved State plan. This combination of approval and promulgation

constitutes a complete and viable transportation control plan that satisfies the requirements of the Clean Air Act.

Each specific control measure of both the State plan and the EPA promulgation are described in the following paragraphs.

State plan: Inspection/maintenance program. An inspection/maintenance program has been initiated by the State of Arizona and is being approved by EPA in this plan. This program will require owners of light-duty and medium-duty vehicles to have their vehicles inspected and any needed maintenance performed every year. According to the State plan, the program will commence on July 1, 1975. EPA is requiring several submissions during the development of the inspection program as follows: draft legislation to be submitted by February 1, 1974; legislative authority to be established by May 1, 1974; and regulations to be adopted by September 1, 1974. These dates are necessary to effect the commitment to obtain legislation during the 1974 session of the Arizona legislature.

State plan: Retrofit program. As with the inspection/maintenance program, this control measure has been initiated by the State of Arizona and is being approved by EPA. The State will require that all pre-1976 light-duty vehicles be retrofitted with an appropriate emission-reducing device (1) On pre-1968 vehicles, an air bleed to the intake manifold will be installed, beginning on July 1, 1975. This device increases the air/fuel mixture by metering additional amounts of air to the manifold; the result is a leaner fuel mixture and more complete combustion resulting in fewer emissions. (2) Commencing on July 1, 1975, vehicles in the 1968-71 model years will be controlled using an air/bleed exhaust gas recirculation device. The operation is similar to the air bleed device mentioned previously. (3) Finally, oxidizing catalyst converters are to be installed on 1973-1975 vehicles able to operate on 91 octane unleaded gasoline. Implementation of the oxidizing catalyst aspect of the retrofit strategy will begin June 1, 1976. As with the inspection program, EPA is requiring several submissions concurrent with

the development of the retrofit program. In particular, EPA is requiring draft regulations for the retrofit devices by February 1, 1974, and adopted regulations by September 1, 1974.

State plan: Employer carpool incentive program. As part of the Arizona Plan, Arizona submitted details of a program to develop and implement an employer incentive program. EPA is approving this program and is setting certain program requirements. The employer carpool incentive program is a new regulation designed to encourage the use of carpools and mass transit and discourage employees from riding to work alone in their automobiles. The program requires an employer who maintains more than 200 employee parking spaces to provide an incentive program. Each employee carpool incentive program is to be submitted to the State by February 1, 1974. Approval or disapproval will be announced by EPA by June 1, 1974. On August 1, 1974, EPA will prescribe a plan for each employer in the above categories who does not submit an approvable plan. All plans will become effective on September 1, 1974. EPA envisions employer incentive plans to contain incentives such as preferential or covered parking for carpools, charges for use of parking spaces by single passenger automobiles, reductions in the number of parking spaces, subsidies to employees who use mass transit, and/or provision of special charter buses. EPA will evaluate each plan in terms of the effectiveness of the incentives in achieving an increase in the occupancy factor. EPA believes an occupancy factor of two is a reasonable goal.

The incentive program requirements will apply to employers in the highly traveled portions of Phoenix and Tucson.

State Plan: Bus/carpool matching program. EPA is also approving the implementation of a bus/carpool matching program. The purpose of the bus/carpool matching program is to assist commuters who desire to form carpools, or where there are sufficient commuters, to form buspools. Participation in the program would be voluntary. Each participant in the program would be

provided with a listing of names and work phone numbers of all other participants who have similar origins and destinations and whose work hours most nearly match their own. The availability of the matching program is phased to include: a demonstration program to make the carpool matching service available to 10,000 employees in the State Capital area of Phoenix and to 2,000 employees in the central business district of Tucson. This phase is to be in operation by March 1, 1974; the program will be extended to include all employees in businesses having more than 200 employees in metropolitan Phoenix and Tucson by September 1, 1974; and, finally, the program will be made available to employees of smaller firms (50 or more employees) in both areas by September 1, 1975.

EPA promulgation: Management of Parking Supply. This regulation will require approval before construction begins for any new or modified parking facility with new capacity or an increase in capacity of 50 or more vehicles. An application requiring information pertinent to assessing the effect on local air quality and VMT in the Metropolitan Phoenix Area and the City of Tucson must be approved by EPA or by an EPA-approved agency. Provision is made for public comment prior to a final decision. As an alternative to instituting review of each parking facility, any local jurisdiction may submit a 5-year comprehensive parking management plan. To be approved, this plan will have to demonstrate that when carried out it will have an effect comparable to a review of each parking facility.

EPA Promulgation: Monitoring transportation trends. In addition to monitoring air quality, EPA will require transportation trend monitoring. This will be accomplished to assure the effectiveness of the inspection and maintenance program and the retrofit program. This regulation requires that the State monitor the actual per-vehicle emissions reduction achieved as a result of the plan. Monitoring of VMT, average vehicle speeds, and occupancy factor in the Metropolitan Phoenix Area and the City of Tucson is also required to evaluate the effective-

ness of the employer carpool incentive program and traffic flow improvements. Reports are required quarterly starting with the period from July 1 to September 30, 1974.

FINDINGS

The Clean Air Act requires that national ambient air quality standards be achieved as expeditiously as practicable. The EPA approved and promulgated measures are sufficient to attain the standards. However, attainment is not possible by 1975. The catalyst retrofit program cannot be implemented until 1976, with full emission reductions unattainable until 1977. Although both the remainder of the retrofit program and the inspection/maintenance program will be implemented in mid-1975, the full annual cycle necessary to achieve the projected emission reduction will not be completed by the end of 1975. Therefore, the standard cannot be achieved until 1977. Because all reasonable and available interim measures will be implemented, a 2-year extension is justified and necessary.

Measures not promulgated. There are four measures which EPA has previously proposed, but which are not included in this promulgation. First, the proposed restrictions on motorcycle registration met considerable opposition at the public hearings. Also motorcycle industry spokesmen presented testimony to the effect that emission standards are necessary and that EPA should set them. EPA currently anticipates that such standards will be established in time for the 1976 model year. In view of this, EPA has reevaluated this measure and has determined that it is not reasonable at this time.

Secondly, EPA's proposed measure requiring a reduction in the number of public parking spaces was not supported at the hearings. Testimony presented by city officials indicated that most public parking is associated with downtown areas. Because of this, the measure would affect those who work and shop in the downtown area and park in public parking. Since the air quality problem is associated with the urbanized portions of both cities and not just the downtown areas, this measure has

been replaced by measures that affect parking in larger areas. These replacement measures are the employer incentive program, which affects the availability or attractiveness of employee parking, and the management of parking supply, which reviews the construction or modification of all parking.

Thirdly, EPA's proposal to establish exclusive bus/carpool lanes is not being promulgated because no segment of the street network could be identified as capable of supporting a viable bus or carpool lane.

Finally, the proposed limitations on gasoline consumption was opposed by many hearing witnesses. EPA intended that this admittedly harsh measure be implemented only after all other control measures proved ineffective. Its purpose was to compensate for shortcomings in the emission-reducing effectiveness of the other control measures. Because EPA is now approving Arizona's retrofit program, which achieves much higher emission reductions, the gasoline restriction measure is not needed to show attainment of the carbon monoxide standard and will not be promulgated.

Additional VMT reduction proposals that go beyond those of EPA were suggested in the hearings, such as bicycle paths, mass transit improvements, and land-use controls. EPA believes that all such measures are constructive and capable of achieving significant improvements in air quality.

Although, EPA selected those strategies that were capable of achieving large-scale emission reductions in a relatively short time, the Agency strongly encourages local government and interest groups to develop strategies to supplement the promulgated control programs.

COMPILATION OF CONTROL STRATEGY EFFECTS

Table 1 shows a compilation of control strategy effects. As can be seen, the national standards for carbon monoxide are attained by 1977 and maintained through 1980.

TABLE 1

CONTROL STRATEGY EFFECTS IN PHOENIX-TUCSON AQCR

Source and control measures	Emissions and reduction tons/day		
	1975	1977	1980
Mobile source emissions without proposed control measures	656.5	522.2	338.3
Expected reductions:			
Inspection/maintenance		—62.7	—40.6
Retrofit devices:			
Catalytic converter (1973-1975)		—58.1	—43.2
Exhaust gas recirculation (1968-1971)		—69.2	—28.7
Air bleed (pre-1968)		—70.8	—42.5
VMT reduction measures	—63.0	—25.2	
Motorcycles	14.0	16.8	18.6
Heavy-duty vehicles	69.6	82.3	98.6
Inspection/maintenance		—9.3	—11.4
Other (stationary, aircraft, etc)	25.7	28.7	31.5
Total emissions remaining	702.8	351.7	320.6
Allowable emissions for attainment of CO standards	351.7	351.7	351.7
Estimated second-high 8-hour CO concentration	[1]20.0	[1]10.0	[1]9.1
National 8-hour CO standard	[1]10	[1]10	[1]10

[1] Milligrams per cubic meters.

BASIS FOR REDUCTIONS CLAIMED

As has been previously discussed, the transportation control plan submitted by the State of Arizona shows sig-

nificantly more reduction for inspection/maintenance and retrofit than has been claimed in this promulgation. The difference is primarily due to the amount of reduction that can be achieved by a loaded inspection program. The average reduction percentage for this program is calculated by the Arizona DAPC to be 22.2 percent of the carbon monoxide emissions from light-duty vehicles. EPA has calculated the reduction to be 12 percent. The difference in the two values results from different estimations of the rate of deterioration between maintenance events. EPA evaluation of the data presented by Arizona to support its claim is that the data do not specifically relate to deterioration when mandatory inspection is required. Although the arguments of Arizona's automotive experts may have merit, EPA policy requires use of the estimated emission reductions contained in Appendix N of 40 CFR, Part 51, except when emissions reductions can be supported by adequate analysis and data. Therefore, reduction values for Appendix N have been used for estimating the effect of an inspection program.

The percentage reductions (50 percent) attributed to use of the catalytic and air bleed retrofit devices are based on information contained in Appendix N. The effectiveness of the exhaust gas recirculation retrofit (40 percent) for 1968-1971 light-duty vehicles was established from limited technical data computed both by EPA and by the manufacturer of one of the devices. Although the data base is small, it is supported by technical judgment.

It has been noted that implementation of the State-selected strategies of inspection/maintenance and retrofit devices by 1977 results in emissions in excess of the allowable emissions. The excess emissions can be negated by a reduction in VMT by light-duty vehicles of approximately 9.6 percent. The VMT reduction measures must therefore achieve this reduction. It is highly desirable to select VMT reduction measures that will be least disruptive to individual mobility and habits and most effective in reducing VMT.

The employee incentive regulations conform to this description for several reasons. First, work trips constitute the largest single class of trips within the Metropolitan

Phoenix Area by a factor of more than two: approximately 40 percent of urban travel is work-oriented, 10-20 percent is shopping-oriented, and 11-22 percent is social-recreational. (See Transit and the Phoenix Metropolitan Area, Maricopa County Association of Governments, which is available at EPA Region IX, 100 California Street, San Francisco, California 94111.) Therefore, any strategy affecting work-related VMT would potentially have the greatest reduction. Second, work trips have a definite pattern defined by a specific origin and destination and occur at a specific time each weekday. Carpooling by work commuters with identical origins, destinations, and times is therefore possible without disrupting mobility patterns of individuals as severely as would disrupting shopping, social-recreational, or business trips. Another important aspect is the effectiveness of reducing the work trip VMT because of the significance of the timing of the work trip. This is due to the fact that the highest concentrations of carbon monoxide occur in the evening hours during the winter months when a surface inversion occurs just prior to the evening peak traffic (caused primarily by work VMT) and produces stable atmospheric conditions that promote accumulation of the resultant automobile pollutants.

Specific reduction values for control measures that have the effect of reducing VMT for the Phoenix or Tucson metropolitan areas are not known. It is possible, however, to estimate the percentage reduction in VMT of all urban trips resulting from an increase in work trip occupancy factor (number of persons per vehicle). Once the decrease in total VMT is known for various increases in work trip occupancy factors, the occupancy factor corresponding to the required VMT reduction can be evaluated for realistic attainment in terms of each selected control measure.

Using an estimated occupancy factor of 1.2 persons per vehicle and an estimate that 40 percent of urban travel is work-oriented (see above), the areawide VMT reductions can be achieved for increases in the work trip occupancy factor as noted in Table 2.

TABLE 2

New work trip occupancy factor	Increase in work trip occupancy factor, percent	Reduction in VMT of all urban trips, percent
1.4	16.7	5.7
1.5	25	8
1.6	33.3	10

As noted previously, a VMT reduction of 9.6 percent is required. This percentage reduction corresponds to a new work-trip-occupancy-factor of approximately 1.6, which is a 33.3 percent increase. In other words, about one out of every four cars would be removed from the work trip and consequently the occupants of one out of every four cars would be carpooling with the remaining three during the work-related trips.

The first phase of the employer carpool incentive program will affect approximately 30 percent of all employed persons (those in businesses with 200 employee parking spaces). Attainment of an occupancy factor of 2 for those employees will achieve an overall work trip occupancy factor of about 1.4, or, as shown above, a 5 percent reduction in VMT for all urban trips. The second phase of the employer carpool incentive program will extend to all employed persons in businesses with 70 employee parking spaces. The expected effect of the second phase is to raise the work trip occupancy factor to about 1.6 for 10 percent reduction in VMT for all urban trips. The 10 percent VMT reduction can be achieved by attaining an occupancy factor of 2 for 60 percent of all employed persons.

VMT reductions in a future year are calculated from a growth curve, rather than from current levels. The regulation for the review of new parking lots should contribute to VMT reduction by preventing the construction of the new parking lots that cause violations of air quality standards. These parking lots would have been a

part of the VMT growth curve. This measure should provide a vehicle for maintaining the air quality standards once they have been achieved.

Economic and Social Impacts of Promulgated Control Strategy

In discussing the impacts of the transportation control plan, it is helpful to understand that the control measures fit into two categories: measures that place control at the source, such as inspection/maintenance and retrofits; and measures that control the total mileage traveled by the vehicle population at-large, such as carpooling and management of parking supply.

Impacts associated with the first class of control measures are primarily economic. The automobile owner will incur directly the cost of annual inspection (approximately $5) and post-inspection maintenance (between $1 and $31), which may be necessary on an annual basis. Such maintenance may result in greater fuel economy and savings. It should also be noted that the program is self-supporting: the $5 inspection fee will cover the operating costs outlay for inspection equipment.

The automobile owner will also incur direct out-of-pocket expenses when he retrofits his vehicle. For the oxidizing catalyst (vehicle model years 1973-1975), this cost will be approximately $90 to $140; for air bleed/exhaust gas recirculation (1968-1971), approximately $35 to $45. In addition, there will likely be costs incurred for replacement, although the frequency of replacement cannot yet be determined.

The impacts associated with carpooling and management of parking supply are much more difficult to quantify. However, the following assumptions regarding carpooling are reasonable: commuters can realize substantial savings by sharing fuel and parking costs; and, for many families, carpooling may eliminate the need for a second automobile. Both the carpooling program and the parking management supply plan may stimulate more effective land use planning efforts.

On the larger scale, the primary impacts will be cleaner air, diminished health problems, and improvements in the quality of life. In a more immediate sense, these measures are significant in terms of the nation's present energy crisis. The automobile is extraordinarily wasteful of energy and resources, particularly if that automobile transports only one person. Four to five empty seats in each automobile that transports only one person represent an enormous amount of available transportation capacity, and more importantly, a vast unused national resource as well. The carpooling strategies in Arizona and around the country will utilize this available transportation capacity and tap this national resource.

Over 25 percent of the nations energy consumption is used for transportation, with 75 percent of this, or 20 percent of the total, used by automobiles and other motor vehicles. Seventy-five percent of the energy used by automobiles is wasted due to the inefficiency of the automobile engine. In addition, the remaining quarter of the energy is largely wasted in any functional sense, since most American cars are far too big and heavy for their usual job of moving one or two people about.

Effective Date

These regulations promulgated today become effective on December 31, 1973, except in the case of those regulations that impose requirements for specific action at earlier dates. In such cases, the Administrator has found that good cause exists for accelerating the effective date because of the need to take action as expeditiously as practicable in order to attain and maintain the national ambient air quality standards. The regulation for management of parking supply is effective immediately upon publication and, pursuant to court order and previously

published notice, applies to actions taken after August 15, 1973.

(42 U.S.C. 1857c-5(c) and 1857g

Dated: November 21, 1973.

RUSSELL E. TRAIN,
Administrator.

Subpart D of Chapter 1, 40 CFR Part 52 is amended as follows:

Subpart D—Arizona

1. Section 52.120 is amended by revising paragraph (c) to read as follows:

§ 52.120 Identification of plan.

* * * *

(c) Supplemental information was submitted on:

(1) March 1, March 2, and May 30, 1972, by the Arizona State Board of Health.
(2) April 11, 1973, and May 10, 1973.
(3) September 11, 1973, by the Governor, and;
(4) September 21, 1973, and October 2, 1973.

2. Section 52.122 is amended by adding paragraph (d) to read as follows:

§ 52.122 Extensions.

* * * *

(d) The Administrator hereby extends for 2 years the attainment date for the national standards for carbon monoxide in the Phoenix-Tucson Intrastate Air Quality Control Region.

3. Section 52.123 is revised to read as follows:

§ 52.123 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approved Arizona's plan for the attainment of the national standards.

(b) With regard to the transportation control strategies submitted by the State of Arizona, the Administrator approves the inspection program for light-duty and medium-duty vehicles; the program for retrofit of air bleed devices on pre-1968 light-duty vehicles, the retrofit of air bleed/exhaust gas recirculation devices on 1968 through 1971 light-duty vehicles, the retrofit of oxidizing catalytic converters on 1973 through 1975 light-duty vehicles, the gaseous fuel conversion program; the carpool matching program; and the employer carpool incentive programs with the exceptions set forth in § 52.130, § 52.132, § 52.135, and § 52.136.

§ 52.131 [Amended]

4. In § 52.131, the attainment date table is revised by replacing the date "May 31, 1975, d" for attainment of the standards for carbon monoxide in the Phoenix-Tucson Intrastate Air Quality Control Region with the Date "May 31, 1977"; and by revoking and reserving footnote "d".

§ 52.132 [Reserved]

5. Section 52.132 is revoked and reserved.

6. Subpart D is amended by adding § 52.132 to read as follows:

§ 52.132 Transportation control compliance schedule.

The requirements of 51.14 are not fully met with respect to transportation control measures.

(a) Definitions:

(1) "Inspection and maintenance program" means a program to reduce emissions from in-use vehicles through identifying vehicles that need emission control related maintenance and requiring that such maintenance be performed.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb GVW or less.

(3) "Medium-duty vehicle" means a gasoline-powered vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(4) "Air bleed control device" means a system or device (such as a modification to the engine's carburetor) that results in engine operation at an increased air-fuel ratio so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide from 1967 and earlier light-duty vehicles of at least 21 and 58 percent respectively.

(5) "Air bleed/exhaust gas recirculation device" means a system or device (such as modification of the engine's carburetor or positive crankcase ventilation system) that results in engine operation at an increased air-fuel ratio so as to achieve reductions of hydrocarbons and carbon monoxide of 25 percent and 40 percent, respectively, from light-duty vehicles of model years 1968 through 1971.

(6) "Oxidizing catalyst" means a device installed in the exhaust system of the vehicle that utilizes a catalyst and, if necessary, an air pump to reduce emission of hydrocarbons and carbon monoxide by 50 percent from that vehicle.

(7) All other terms used in this paragraph that are defined in Appendix N to Part 51 of this chapter, are used herein with the meaning therein defined.

(b) This section is applicable in Maricop [sic] and Pima Counties in the Phoenix-Tucson Intrastate Region.

(c) To implement the approved control measures specified in Sections 5 and 7 of the plan submitted September 11, 1973, and to complete the requirements of §§ 51.11 (b), 51.14 and 51.15 of this chapter, the State of Arizona must submit to the Administrator:

(1) No later than February 1, 1974, detailed compliance schedules showing the steps the State of Arizona will take to establish and enforce the inspection and maintenance program for light-duty and medium-duty vehicles; the program for retrofit of air bleed devices on pre-1968 light-duty vehicles, of air bleed/exhaust gas recirculation devices on 1968 through 1971 light-duty vehicles, and of oxidizing catalytic convertors on 1973 through 1975 light-duty vehicles; and the gaseous fuel conversion program. These schedules shall include:

(i) The text of proposed legislation and regulations for the inspection and maintenance program, the gaseous fuel conversion program, and the light-duty vehicle retrofit programs.

(ii) A signed statement from the governor or his designee identifying the sources and amounts of funds for the programs. If funds can not legally be obligated under existing statutory authority, the text of needed legislation shall be submitted.

(iii) The date by which the State will recommend all needed legislation to the State legislature.

(iv) The date by which necessary equipment for the inspection and maintenance and carpool matching program will be ordered.

(2) No later than May 1, 1974, the legislative authority for implementing the inspection and maintenance program and the gaseous fuel conversion program.

(3) No later than September 1, 1974, the adopted regulations and administrative policies necessary for implementation of the control measures cited in paragraph (c) (1) of this section.

(4) No later than January 1, 1974, a compliance schedule for the employee carpool incentive program outlined in section 8 of the State of Arizona Air Pollution Control Implementation Plan, Transportation Control Strategies. This compliance schedule shall conform to the requirements of § 52.137.

(5) No later than January 1, 1974, a compliance schedule for the carpool matching program. This compliance schedule shall conform to the requirements of § 52.138.

(d) The regulations adopted to implement the approved inspection and maintenance program referred to in paragraph (c) (1) of this section shall include as a minimum [sic]:

(1) Provisions for inspection of all such motor vehicles at periodic intervals at least once each year by means of an emission test having a loaded mode test cycle.

(2) Provisions for inspection failure criteria consistent with the failure of 50 percent of the vehicles tested during the first inspection cycle.

(3) Provisions to require that failed vehicles receive, within 30 days, the maintenance necessary to achieve compliance with the inspection standards. This shall include sanctions against noncomplying individual owners and repair facilities, retest of failed vehicles following maintenance, a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts, and knowledgeable operators to perform the tasks satisfactorily, and such other measures as may be necessary or appropriate.

(4) A program of enforcement, such as a spot check of idle adjustment, to ensure that, following maintenance, vehicles are not subsequently readjusted or modified in such a way as would cause them to no longer comply with the inspection standards. This program shall include appropriate penalties for violation.

(5) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(6) Requirements that the State, after July 1, 1975, shall not register or allow to operate on its highways any light-duty or medium-duty vehicle that does not comply with the applicable standards and procedures adopted pursuant to the approved inspection and maintenance program and to paragraph (d) of this section. This shall not apply to the initial registration of a new motor vehicle.

(7) Requirements that after July 1, 1976, no owner of a light-duty vehicle shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures adopted pursuant to the approved inspection and maintenance program and to paragraph (d) of this section. This shall not apply to the initial registration of a new motor vehicle.

(8) The State may exempt any class or category of vehicles that the State finds are rarely used on public streets and highways (such as classic or antique vehicles).

(e) The regulations adopted to implement the approved retrofit programs referred to in paragraph (c) (1) of this section shall include as a minimum:

(1) Requirements that on or before May 3, 1977, all gasoline-powered fleet vehicles, and all private light-duty vehicles of 1973 through 1975 model years subject to registration in Maricopa and Pima Counties, shall be equipped with an appropriate oxidizing catalyst control device.

(2) Requirements that on or before August 1, 1976, all gasoline-powered, light-duty vehicles of model year 1968 to 1971 subject under presently existing legal requirements to registration in Maricopa and Pima Counties, shall be equipped with an air bleed/exhaust gas recirculation control device.

(3) Requirements that on or before August 1, 1976, all gasoline-powered, light-duty vehicles of model years prior to 1968 subject to registration in Maricopa and Pima Counties, shall be equipped with an appropriate air bleed device. The State may exempt any class or category of vehicles that the State finds are rarely used on public streets and highways (such as classic or antique vehicles) or for which the State demonstrates to the Administrator that air bleed retrofit devices are not commercially available.

7. Subpart D is amended by revising § 52.136 to read as follows:

§ 52.136 Control strategy: Carbon monoxide.

(a) The requirements of § 51.14 of this chapter are not met because the plan does not contain sufficient measures to provide for attainment and maintenance of the national standards for carbon monoxide in the Phoenix-Tucson Intrastate Region as expeditiously as practicable.

(b) The requirements of § 51.14(a) and (b) of this chapter are not met because the plan does not provide a description of enforcement methods, administrative policies, and proposed rules and regulations pertaining to the selected transportation control measures.

(c) (1) The State-submitted inspection and maintenance program is disapproved to the extent it provides for inspection and maintenance of vehicles of over 10,000 lb GVW.

(2) The State-submitted air bleed/EGR retrofit program is disapproved to the extent it provides for the retrofitting of such devices on 1977 model vehicles.

8. Subpart D is amended by adding §§ 52.137, 52.138, 52.139, and 52.140 as follows:

§ 52.137 Employer carpool incentive program.

(a) Definitions:

(1) "Metropolitan Phoenix Area" means the area bounded on the south by I-17 and Buckeye Road to the intersection with I-17, on the east by 48th Street, on the north by the Arizona Canal and Glendale Avenue, and on the west by 43rd Avenue.

(2) "Greater Tucson Area" means an area bounded by a line starting at the intersection of Sweetwater Drive and Silverbell Road, thence 6 miles east, thence 1.5 miles south, thence 5.5 miles east, thence 7.5 miles south, thence 4.5 miles west, thence 3 miles south, thence 5 miles west, thence 5 miles north, thence 2 miles west, thence 7 miles north to the point of origin.

(b) This section is applicable within the Metropolitan Phoenix and Greater Tucson areas in the Phoenix-Tucson Intrastate Air Quality Control Region.

(c) On or before January 1, 1974, the State of Arizona shall submit to the Administrator a compliance schedule implementing the approved employer carpool incentive program. This compliance schedule shall at a minimum, provide that each employer in areas specified in paragraph (b) of this section who maintains more than 200 employee parking spaces shall, on or before February 1, 1974, submit to the State of Arizona an adequate incentive program designed to encourage the use of carpools and mass transit and discourage employees from using single-passenger automobiles to commute to work. Each program shall contain provisions for preferential parking, covered parking, and other benefits to

employees who travel to work by carpool; subsidies to employees who use mass transit; reductions in the number of employee parking spaces or surcharges on the use of such spaces by employees; provision of special charter buses or other modes of mass transit for the use of employes; and/or any other measures acceptable to the Administrator. By April 1, 1974, the State of Arizona shall submit each program so received, together with the State's evaluation of the program and the State's recommendation as to whether that program should be approved or disapproved, to the Administrator.

(d) On or before June 1, 1974, the Administrator shall approve or disapprove each program so submitted. Notice of such approval or disapproval shall be published in this Part 52.

(e) In order to be approvable by the Administrator, each program shall contain procedures whereby the employer will supply the State of Arizona and the Administrator with semiannual certified reports that shall show, at a minimum the following information:

(1) The number of employees at each of the employer's facilities within the areas specified in paragraph (b) of this section on October 15, 1975, and as of the date of the report.

(2) The number of (i) free and (ii) non-free employee parking spaces provided by the employer at each such employment facility on October 15, 1973, and as of the date of the report.

(3) The number of employees regularly commuting to and from work by (i) private automobile, (ii) carpool, and (iii) mass transit at each such employment facility on January 1, 1974, and as of the date of the report.

(4) Such other information as the Administrator may prescribe.

(f) If, after the Administrator has approved a carpool incentive program, the employer fails to submit any reports in full compliance with paragraph (e) of this section, or if the Administrator finds that any such report has been intentionally falsified, or if the Administrator determines that the program is not in operation

or is not providing adequate incentives for employee use of carpools and mass transit, the Administrator may revoke the approval of such plan. Such revocation shall constitute a disapproval.

(g) By July 1, 1974, the Administrator shall prescribe a carpool incentive program for each employer to whom paragraph (b) of this section is applicable if such employer has not submitted a program. By August 1, 1974, the Administrator shall prescribe a carpool incentive program for each employer to whom paragraph (b) of this section is applicable if the program submitted is not adequate. Within 2 months after any revocation pursuant to paragraph (f) of this section, the Administrator shall prescribe a carpool incentive program for the affected employer. Any program prescribed by the Administrator shall be published in this Part 52.

(h) All programs approved under paragraph (d) or promulgated under paragraph (g) on account of an initial failure to submit a plan shall be fully implemented on or before September 1, 1974.

(i) Each employer in the Region who maintains more than 70 employee parking spaces shall, on or before April 1, 1975, submit to the Administrator an adequate annual incentive program conforming to the requirements of paragraphs (b) and (e) of this section, except that in paragraph (e) of this section the reference date for reports shall be October 15, 1974, rather than January 1, 1974. Each such program shall be subject to approval or disapproval by the Administrator by June 1, 1975. Each such program, when approved, shall be subject to revocation as provided in paragraph (f) of this section.

(j) By June 1, 1975, the Administrator shall prescribe a carpool incentive program for each employer to which paragraph (i) of this section is applicable if such employer has not submitted a program. By August 1, 1975, the Administrator shall prescribe a carpool incentive program for each employer to which paragraph (i) of this section is applicable if the program submitted is not adequate. Within 2 months after any revocation of any program of any employer pursuant to paragraph (f) of

this section, the Administrator shall prescribe a carpool incentive program for the affected employer. Any program prescribed by the Administrator shall be published in this Part 52. All such programs shall be fully implemented on or before September 1, 1975.

§ 52.138 Bus/carpool matching program.

(a) Definitions:

(1) "Metropolitan Phoenix Area" means the area bounded on the south by I-17 and Buckeye Road to the intersection with I-17 on the east by 48th Street, on the north by the Arizona Canal and Glendale Avenue, and on the west by 43rd Avenue.

(2) "Greater Tucson Area" means an area bounded by a line starting at the intersection of Sweetwater Drive and Silverbell Road, thence 6 miles east, thence 1.5 miles south, thence 5.5 miles east, thence 7.5 miles south, thence 4.5 miles west, thence 3 miles south, thence 5 miles west, thence 5 miles north, thence 2 miles west, thence 7 miles north to the point or origin.

(b) This section is applicable within the Metropolitan Phoenix Area and Greater Tucson Area in Phoenix-Tucson Intrastate Air Quality Control Region.

(c) On or before January 1, 1974, the State of Arizona shall submit to the Administrator a compliance schedule for implementing the approved bus/carpool matching program. This compliance schedule shall, at a minimum, provide for implementation of the program in the following phases:

(1) On or before March 1, 1974, bus/carpool matching shall be made available to the following employees:

(i) *Phoenix state capital area.* At least 10,000 employees whose work location is within the area bounded by VanBuren Street on the north, Jefferson Street on the south, Central Avenue on the east, and 19th Avenue on the west.

(ii) *Tucson central business district.* At least 2,000 employees whose work location is within an area bounded

by a circle of 2-mile radius centered at the intersection of Congress Street and Stone Avenue.

(2) On or before September 1, 1974, bus/carpool matching shall be made available to the following employees:

(i) *Metropolitan Phoenix Area.* All employees in businesses having more than 250 employees.

(ii) *Greater Tucson Area.* All employees in businesses having more than 100 employees.

(3) On or before September 1, 1975, bus/carpool matching shall be made available to the following employees.

(i) *Metropolitan Phoenix Area.* All employees in businesses having more than 50 employees.

(ii) *Greater Tucson Area.* All employees in businesses having more than 50 employees.

(d) The compliance schedule shall also include the following:

(1) A method of collecting information that shall include the following as a minimum:

(i) Provisions that each affected employee receive an application form with a cover letter describing the matching program.

(ii) Provisions on each application form for applicant identification of time, origin, and destination.

(iii) Provisions for each applicant to receive a list of names and work phone numbers of all other applicants who have similar origins and destinations and whose work hours most nearly match theirs.

(2) A manual or computer method of matching information that will have provisions for locating each applicant's origin and destination within a grid system in the urban area and the semirural region surrounding the Metropolitan Phoenix Area and the Greater Tucson Area and matching applicants with identical origin and destination grids and compatible work schedules.

(3) A method for providing continuing service such that the master list of all applicants is retained and available for use by new applicants, applications are currently available, and the master list is periodically updated to remove applicants who have moved from the area.

(4) An agency or agencies responsible for operating, overseeing, and maintaining the bus/carpool matching program.

§ 52.139 Management of parking supply.

(a) Definitions:

(1) "Parking facility" (also called "facility") means a lot, garage, building, or structure, or combination or portion thereof, in or on which motor vehicles are temporarily parked.

(2) "Vehicle trip" means a single movement by a motor vehicle that originates or terminates at a parking facility.

(3) "Construction" means fabrication, erection, or installation of a parking facility, or any conversion of land, buildings, or structures, or portions thereof, for use as a facility.

(4) "Modification" means any change to a parking facility that increases or may increase the motor vehicle capacity of, or the motor vehicle activity associated with, such parking facility.

(5) "Commence" means to undertake a continuous program of on-site construction or modification.

(b) This regulation is applicable to the following cities within the Phoenix-Tucson Intrastate Air Quality Control Region: Phoenix, Tucson, Scottsdale, Tempe, Mesa, and Glendale.

(c) The requirements of this section are applicable to the following parking facilities in the areas specified in paragraph (b) of this section, the construction or modification of which began after August 15, 1973:

(1) Any new parking facility with parking capacity of 50 or more motor vehicles;

(2) Any parking facility that will be modified to increase parking capacity by 50 or more motor vehicles; and

(3) Any parking facility constructed or modified in

increments which individually are not subject to review under this section, but which, when all such increments occurring since August 15, 1973, are added together, would as a total subject the facility to review under this section.

(d) No person shall commence construction or modification of any facility subject to this section without first obtaining written approval from the Administrator or an agency designated by him; provided, that this paragraph shall not apply to any construction or modification for which a general construction contract was finally executed by all appropriate parties on or before August 15, 1973.

(e) No approval to construct or modify a facility shall be granted unless the applicant shows to the satisfaction of the Administrator or agency approved by him that:

(1) The design or operation of the facility will not cause a violation of the control strategy that is part of the applicable implementation plan, and will be consistent with the plan's VMT reduction goals.

(2) The emissions resulting from the design or operation of the facility will not prevent or interfere with the attainment or maintenance of any national ambient air quality standard at any time within 10 years from the date of application.

(f) All applications for approval under this section shall include the following information:

(1) Name and address of the applicant.

(2) Location and description of the parking facility.

(3) A proposed construction schedule.

(4) The normal hours of operation of the facility and the enterprises and activities that it serves.

(5) The total motor vehicle capacity before and after the construction or modification of the facility.

(g) The Administrator may require an application for the construction or modification of between 50 and 249 spaces to include the information required by paragraphs (h) (1) through (7) of this section.

(h) All applications under this section for new parking facilities with parking capacity for 250 or more vehi-

cles, or for any modification which, either individually or together with other modifications since August 15, 1973, will increase capacity by that amount, shall, in addition to that information required by paragraph (f) of this section, include the following information unless the applicant has received a waiver from the provisions of this paragraph from the Administrator or agency approved by the Administrator:

(1) The number of people using or engaging in any enterprises or activities that the facility will serve on a daily basis and a peak hour basis.

(2) A projection of the geographic areas in the community from which people and motor vehicles will be drawn to the facility. Such projection shall include data concerning the availability of mass transit from such areas.

(3) An estimate of the average and peak hour vehicle trip generation rates, before and after construction or modification of the facility.

(4) An estimate of the effect of the facility on traffic pattern and flow.

(5) An estimate of the effect of the facility on total VMT for the air quality control region.

(6) An analysis of the effect of the facility on site and regional air quality, including a showing that the facility will be compatible with the applicable implementation plan, and that the facility will not cause any national air quality standard to be exceeded within 10 years from date of application. The Administrator may prescribe a standardized screening technique to be used in analyzing the effect of the facility on ambient air quality.

(7) Additional information, plans, specifications, or documents required by the Administrator.

(i) Each application shall be signed by the owner or operator of the facility, whose signature shall constitute an agreement that the facility shall be operated in accordance with the design submitted in the application and with applicable rules, regulations, and permit conditions.

(j) Within 30 days after receipt of an application, the Administrator or agency approved by him shall notify the

public, by prominent advertisement in the Region affected, of the receipt of the application and the proposed action on it (whether approval, conditional approval, or denial), and shall invite public comment.

(1) The application, all submitted information, and the terms of the proposed action shall be made available to the public in a readily accessible place within the affected air quality region.

(2) Public comment submitted within 30 days of the date such information is made available shall be considered in making the final decision on the application.

(3) The Administrator or agency approved by him shall take final action (approval, conditional approval, or denial) on an application within 30 days after close of the public comment period.

(k) As an alternative to satisfying the requirements of paragraphs (d) through (j) of this section, any local jurisdiction or authority may submit to the Administrator a comprehensive parking management plan covering, at a minimum, the next 5 years. The plan must be submitted on or before April 1, 1974. By June 1, 1974, the Administrator shall approve such plans if he finds that:

(1) The agency submitting the plan has full and adequate legal authority to enforce compliance with its requirements.

(2) The area over which the agency exercises the authority described in paragraph (k) (1) of this section is a logical unit for air pollution control planning purposes.

(3) The plan sets forth a complete description of where additional construction of parking facilities will be allowed under the plan, and where parking spaces will be eliminated. The plan shall include any procedures for adjustments or variances to existing zoning or building codes that require parking spaces for new facilities that are inconsistent with the plan. The plan must state in detail the reasons for expecting any anticipated reduction in parking spaces, and must provide that no parking facility may legally be constructed in the area subject to the plan unless such construction is specifically authorized by the plan.

(4) The plan demonstrates that if its terms are carried out, air quality will improve at least as much as if all new parking facilities were subject to the requirements of paragraph (d) through (j) of this section. If any increase in VMT would result under the proposed plan over and above the VMT figure that would result if the review system outlined in paragraphs (d) through (j) of this section were followed, the plan shall show by clear and convincing evidence that any resulting impact on air quality will be insubstantial.

(5) The plan has been adopted after a public hearing held in [sic] conformity with the requirements of § 51.4 of this chapter.

(l) In any area covered by a parking management plan approved under paragraph (k) of this section, no action to expand the number of spaces at parking facilities may be taken that is not explicitly provided for in the plan without a permit issued in accordance with the requirements of paragraphs (d) through (j) of this section.

§ 52.140 Monitoring transportation trends.

(a) This section is applicable to the State of Arizona.

(b) In order to assure the effectiveness of the inspection and maintenance program and the retrofit devices required under the Arizona implementation plan, the State shall monitor the actual per-vehicle emissions reductions occurring as a result of such measures. All data obtained from such monitoring shall be included in the quarterly report submitted to the Administrator by the State in accordance with § 51.7 of this chapter. The first quarterly report shall cover the period January 1 to March 31, 1976.

(c) In order to assure the effective implementation of §§ 52.137, 52.138, and 52.139, the State shall monitor vehicle miles traveled and average vehicle speeds for each area in which such sections are in effect and during such time periods as may be appropriate to evaluate the effectiveness of such a program. All data obtained from such monitoring shall be included in the quarterly report submitted to the Administrator by the State of Arizona in accordance with § 51.7 of this chapter. The first quar-

terly report shall cover the period from July 1 to September 30, 1974. The vehicle miles traveled and vehicle speed data shall be collected on a monthly basis and submitted in a format similar to Table 1.

TABLE 1

Time period
Affected area

Roadway type	VMT or Average Vehicle Speed	
	Vehicle type (1)	Vehicle type (2)[1]
Freeway		
Arterial		
Collector		
Local		

[1] Continue with other vehicle types as appropriate.

(d) No later than March 1, 1974, the State shall submit to the Administrator a compliance schedule to implement this section. The program description shall include the following:

(1) The agency or agencies responsible for conducting, overseeing, and maintaining the monitoring program.
(2) The administrative procedures to be used.
(3) A description of the methods to be used to collect the emission data, VMT data, and vehicle speed data; a description of the geographical area to which the data apply; identification of the location at which the data will be collected; and the time periods during which the data will be collected.

[FR Doc. 73-25118 Filed 11-30-73; 8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

National Capital Region Transportation Control Plans

This notice of final rulemaking amends the implementation plans of the District of Columbia, Maryland, and Virginia, so as to provide a single unified transportation control plan for the National Capital Interstate Air Quality Control Region (the "Region"). A General Preamble was published on November 6, 1973 (38 FR 30626), and is incorporated by reference.

BACKGROUND

On March 20, 1973, by publication in the FEDERAL REGISTER (38 FR 7325, and 7327), the Administrator, acting in response to a court order, notified the District of Columbia and the Governor of Maryland that transportation control plans should be submitted by April 15, 1973, for the portions of the Region under their respective jurisdictions. In response, plans were submitted on April 20, 1973, by the District and on April 16 and May 5, 1973, by Maryland. Although Virginia was not notified at that time, it too submitted transportation control plans to the Administrator on April 11 and May 30, 1973. These three plans had been worked out in coordination with each other under the auspices of the National Capital Interstate Air Quality Planning Committee, a council of local and State governments.

The strategies proposed, such as improved mass transit, parking disincentives, emission inspection programs, and additional stationary source controls represented the combined efforts of the three jurisdictions to develop a unified

plan which would apply area-wide. They comprised a wide range of concepts which, if implemented properly, should effectively control the automobile-related emission problems in the area. The strategies as proposed by each of the jurisdictions were for the most part acceptable. However, since none of the plans could be completely approved. [sic] On June 15, 1973, the Administrator issued approval/disapproval notices containing his evaluation of each of the plans on June 22, 1973 (38 FR 16550).

The jurisdictions responded in a timely fashion to cure some of the deficiencies in the original submissions. Thus, material to supplement the plans was provided by the District of Columbia on July 9 and July 16; by Maryland on June 15, June 22, June 28, and July 10; and by Virginia on July 9, 1973. Public comment on each of these additional submissions was invited by FEDERAL REGISTER notice published July 18, 1973 (38 FR 19132).

On August 2, 1973, the Administrator published a proposed transportation control plan for each of the three portions of the Region (38 FR 20758, 20779, 20789). The proposals were very largely based on the material submitted by the three local jurisdictions. Public hearings on these EPA proposals were held in Virginia on September 4, in the District of Columbia on September 5, and in Maryland on September 6, 1973. The submissions by Virginia, Maryland, and the District were also extensively discussed at the public hearings.

Large portions of the submissions made in June and July by the three local jurisdictions are being approved today. In addition, the measures which EPA is promulgating have, to the maximum extent possible, been drafted to reflect the expressed preferences of the District of Columbia Government and the State of Maryland and the Commonwealth of Virginia.

AIR POLLUTION IN THE NATIONAL CAPITAL INTERSTATE AQCR

The Region is made up of Montgomery and Prince Georges Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and the District of Columbia. It extends past Dulles Airport in the west, to Gaithersburg and the National Bureau of Standards in the North along Route 70-S, past Quantico, Virginia, south along the Potomac River, and to Beltsville, Maryland, in the east.

1. Natural Features. The National Capital Interstate Region is situated almost entirely in the gentle rolling Piedmont Plateau and the nearly flat Atlantic Coastal Plain. The terrain to the east is generally flat, with elevations less than 1,000 feet above sea level. Gentle rolling hills with elevations of 200 to 500 feet extend to the Blue Ridge Mountains at the western edge of the Region. In general, the topography permits free air movement with few channeling effects.

Surface winds as reported by the National Airport occur most frequently from the northwest during the colder months and from the south and south-southeast during the warmer months. Weather changes occur frequently, but periods of stagnating anticyclones, which contribute to the development of high pollutant concentrations, are not uncommon. During the 30-year period from 1936 to 1965, the area was affected by 48 stagnating anticyclones for a total of 231 days. Average duration of each anticyclone was 4.8 days; and in three of the cases, stagnation conditions persisted for seven days or more. Of the 48 cases, 34 occurred during the months of August, September, and October. Frequency of inversions was greatest at 7 a.m., varying from 48 percent in the winter to 59 percent in the fall. Mean maximum mixing heights varied from 480 meters in December to 1,310 meters in June.

2. Air Quality and Reductions. Continuous monitoring of carbon monoxide (CO) levels is provided by 11 stations in the Region, with 8 stations providing continuous monitoring of photochemical oxidants. The highest 1972 CO reading of 20 parts per million (ppm) (compared to the national standard of 9 ppm) was recorded at the CAMP station in the District of Columbia. Oxidant readings of 0.20 ppm, compared to the national standard of 0.08 ppm, were recorded at the Argyle Sligo Airmon 5 station in

Silver Spring, Maryland, and at the Airmon 4 station in Hyattsville, Maryland. The Air Quality Planning Committee, after review of air quality data throughout the Region, recommended these values be uniformly used as a basis for development of the Region's strategies by the District of Columbia, Virginia, and Maryland.

Emission reductions of 55.5 percent for CO using the rollback technique and 67 percent for hydrocarbons (based on the conversion curve in Appendix J of 40 CFR 51) were determined by the jurisdictions as necessary to meet the national ambient air quality standards. Since significantly greater emission reductions are required for HC, the control measures proposed to attain the oxidant standard will be more than sufficient to attain the CO standard. For a further discussion, see the Technical Support Document for the National Capital Transportation Control Plan, October 1973 (hereafter referred to as the Technical Support Document), which is available for public inspection at the EPA Region III Air Programs Branch, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, and at the Freedom of Information Center, EPA, Room W232, 401 M Street S.W., Washington, D.C. 20460.

Oxidant readings for this past summer, not yet officially reported to or verified by EPA, will very possibly be equal to or higher than the maximum readings obtained to date. If this proves to be the case, a plan revision calling for additional reduction measures will be required.

Since 1972 was the year in which the high readings for HC and CO were taken, emissions for that year have been calculated in order to determine the total degree of control required.

Emissions of hydrocarbons vary considerably during the day, and the rush hours account for a major amount of emissions due to the contribution of motor vehicles. Hence, the HC emission inventories and strategy effects were determined for this peak period, 6-9 a.m., although most of the strategies approved or promulgated today will reduce emissions throughout the day.

The local Air Quality Planning Committee's conclusion is that emissions of hydrocarbons in the Region between

6 a.m. and 9 a.m. during 1972 amounted to 63.3 tons. Emissions of carbon monoxide in the eight-hour period from 6 a.m. to 2 p.m. during that same year amounted to 1133 tons.

The National Capital Transportation Control Plan

1. Background and origin. The transportation control measures contained in this plan are based as much as possible on measures suggested by the three affected local jurisdictions. In particular, no measures to reduce vehicle miles traveled (VMT) are included which did not originate from suggestions made by the States or by the District of Columbia, except for the requirement to review the construction of certain parking facilities.

The submissions from each of the three local jurisdictions (including the supplemental submissions) call for annual emission testing of all light duty vehicles, establishment of a computer car pool matching system, and the substantial expansion of bus service. The latter will occur through the expansion of the existing fleet size, establishment of an extensive network of exclusive bus lanes, and the addition of new routes, together with such amenities as shelters and more fringe parking lots. In addition, all employers and all commercial lots in areas served by mass transit will be required to charge commuters by automobile the prevailing commercial rate plus a two dollar per day Mass Transit Incentive, and on-street parking by commuters in these same areas will be restricted. Increased controls on stationary sources of hydrocarbon emissions were also called for. In addition, the District originally proposed and Virginia took credit for a ban on deliveries by gasoline-powered trucks during about half the daylight hours. Finally, the plans assumed that EPA-imposed restrictions on ground operations of aircraft at Dulles and National airports would lead to a further emission reduction. For a further discussion of the three state submissions, see the Evaluation Reports prepared by EPA for each of them. These are available for inspection at the addresses listed above for the Technical Support Document.

The EPA proposals published in the FEDERAL REGISTER on August 2, 1973, discussed these state measures, and in certain instances language was proposed to give the state strategies the necessary regulatory form. The Clean Air Act, however, requires that before an extension may be granted to a Region its plans must apply all measures to reduce emissions which are "reasonably available." These included the retrofit of 1971-74 fleet vehicles with oxidizing catalysts, and the retrofit of older vehicles with a relatively inexpensive emission control device known as VSAD (Vacuum Spark Advance Disconnect). As contingency measures, the preconstruction review of all new parking lots to determine their impact on air quality and a reduction in off-street parking spaces were proposed for implementation only if the Mass Transit Incentive was not enacted. Where necessary, additional measures for the control of emissions from stationary sources were also proposed to cure minor technical deficiencies in the local plans.

2. Summary of public comments. Three days of public hearings were held on the proposed plans for the National Capital Interstate Region. In all seventy-nine persons and organizations gave testimony. In addition, numerous written comments were received from private citizens, citizen groups, environmental organizations, trade associations, private industry, and governmental entities.

HEAVY DUTY VEHICLE RESTRAINTS

Criticism of the proposed ban on heavy duty gasoline powered trucks during the morning rush hours was especially pointed. It was argued that the emission reduction that would be achieved by imposition of the ban did not justify the extensive social and economic disruption that would result and that disruption to the construction schedule of the METRO system might result if the ban were imposed. Numerous practical difficulties were raised by the affected industries which would require an unwieldy exemption list and render enforcement very difficult. The testimony favored the substitu-

tion of heavy duty retrofit in place of an outright ban on heavy duty vehicle during rush hour periods. EPA agrees that in the D.C. area, which is heavily serviced oriented, a ban on heavy duty vehicles would, of necessity lead to many legitimate exemptions. Therefore, EPA has decided that a retrofit strategy would be more appropriate and would assure that emission reductions needed for this category of vehicles would be attained.

MASS TRANSIT INCENTIVE SURCHARGE

Comments concerning approval of the proposed two-dollar Mass Transit Incentive Surcharge on all day parking were mixed, but the majority were in opposition. Opposition from downtown businessmen was vigorous. Concern was expressed that the incentive would penalize central business district (CBD) businesses, would further hamper an already struggling downtown area, and would contribute heavily to relocation of businesses to suburban areas. However, much of the criticism appears to be based on the misimpression that the Mass Transit Incentive Surcharge would be levied only in the District of Columbia, that it would be imposed on shoppers, and that it would be imposed before adequate mass transit was available. In fact, the incentive will be applied only to long-term commuter parking (not shoppers), will be applied uniformly among the jurisdictions and will not be applied until adequate mass transit is available.

Also there were claims that the surcharge was a "commuter-tax." However, it is not the purpose or effect of this measure to raise revenue for one jurisdiction at the expense of others. The surcharge will apply to all commuters to areas adequately served by mass transit, wherever they come from, and will be applied not only in certain areas of the District, but in a significant number of employment centers outside it. All revenues from the surcharge will be used to expand mass transit, which will be to the benefit of the Region as a whole.

Comments in the Maryland hearing asserted that the outer suburbs would be unfairly burdened by the Mass Transit Incentive Surcharge because there are few, if

any, mass transit lines in existence or proposed that run to these areas. However, only those areas adequately served by mass transit will be affected, and in addition those in outer suburbs can greately mitigate any adverse impact either by car pooling or park and ride facilities.

Despite the objections raised, EPA agrees with the three lead jurisdictions that strong negative disincentives as well as positive incentives are necessary to divert automobile drivers to mass transit. In fact, this is the premise on which the entire transportation portion of the plans submitted by the jurisdictions is based upon.

Several comments were received suggesting that the revenues obtained from the incentive should be spent on improvements of mass transit. This is consistent with the plans for use of the revenues.

It was also suggested that mass transit improvements could be facilitated by an immediate phase-in of the Mass Transit Incentive Surcharge applied throughout the entire AQCR. This alternate proposal would impose an immediate phase-in of a smaller charge which would be applied to all parking facilities area-wide without regard to mass transit service. The proceeds from the charge would be used to purchase and subsidize mass transit. The charge would increase in amount as mass transit becomes more readily available. EPA feels the phased-in approach has merit.

Finally, most of the written comments submitted by the local business community included pleas that the community should be free to propose and enact an alternative program. However, none of the comments offered suggestions other than to increase use of carpools, a program which was part of the proposed plan. EPA encourages the communities affected to establish programs which would achieve similar or greater emission reductions than the programs being approved today. If such programs in proper regulatory form and of adequate stringency are submitted to EPA, they will be approved and the corresponding portions of EPA's plan will be descinded.

The Environmental Protection Agency also found merit in the suggestions that handicapped persons should be

exempt from the incentive, and EPA has incorporated these suggestions in this promulgation.

Parking Restrictions

Three types of parking restrictions were discussed in the comments received by EPA: the on-street parking restrictions, the off-street space reduction contingency regulation proposed by EPA, and parking in Federal facilities.

As to on-street parking, several citizen groups in the District of Columbia emphasized that parking restriction provision proposed by the local jurisdictions are essential to the effectiveness of the Plan, but that the proposed provisions lacked sufficient detail. There were comments that on-street parking should be prohibited from heavily traveled arterials, and that a permit system for residents should be included. In fact, the plan proposed by the District of Columbia which is being approved in this action includes provisions similar to those advocated in the public comments.

With respect to the EPA proposal to reduce available off-street parking spaces as an alternative strategy businesses were opposed to any restrictions of available parking on company property. The State of Maryland commented that they had no authority to require local jurisdictions to reduce the number of parking spaces. The parking management groups questioned EPA's authority to impose parking restrictions. In both cases, EPA believes its legal authority adequately supports the proposed contingency measure. However, other groups feared that commuters would utilize all available spaces, leaving few spaces for shoppers, if the proposal were implemented. Partly due to this last point, and since subsequent studies have shown that a much greater space reduction than proposed in the areas affected would be necessary to achieve results similar to the surcharge, EPA has dropped the contingency proposal for parking space reduction.

Several comments suggested that increasing the fine for parking violations and enforcing the existing restric-

tions on on-street parking more strictly would also aid any on-street parking reduction plan. EPA encourages the local jurisdictions to continue to study these recommendations.

Much public testimony was received concerning the issue of Federal parking. The comments were nearly unanimous that in order for any parking strategy to be effective, the full cooperation of the D.C. area's largest single employer, the Federal Government, would be necessary. Many persons suggested that if controls were not placed on Federal employee parking, private sector personnel could not be expected to submit to regulation. The Federal Government agrees, and recognizes its responsibilities to the National Capital area. Such controls were contained in the EPA proposal, and are now being promulgated.

Several comments suggested that night employees be exempted from parking restrictions for safety and other reasons. Since the plan is designed to control emissions during daylight hours because of the nature of smog formation, control over these personnel is not necessary for air quality purposes, and EPA has made provisions in this promulgation for such an exemption.

Mass Transit

Numerous comments were received on how mass transit could be improved. Comments suggested fringe parking systems, improved routing, bus lanes, dial-a-ride buses, limited stop buses, reduction in fares, and staggered working hours. The Washington Metropolitan Area Transit Authority (WMATA) has expressed willingness to work closely with EPA in considering each of these measures. As discussed elsewhere in this preamble, WMATA is committed to expanding its bus fleet as quickly as possible and to initiating new service lines. Exclusive bus lanes were proposed by the local jurisdictions, and are being approved in this promulgation.

WMATA has singled out staggered working hours as being an effective aid to more efficient use of mass transit.

EPA and GSA are currently studying the feasibility of staggered working hours and four day work weeks for Federal employees.

There was universal support for the proposed computerized car pool matching system. The Metropolitan Washington Board of Trade, with the assistance of the Council of Government, has independently initiated a program to promote car pools among private industry. The Board is currently holding a series of workshops with employers explaining car pool techniques, has made available information, experts, and computer time to assist in establishing car pool programs.

Commuter Rail

Numerous citizen groups pointed to the desirability of a commuter rail system for the D.C. area. EPA recognizes that commuter rail systems are quite functional in other metropolitan areas and that a rail system could be an attractive transportation alternative. However, implementation of such a system area wide is fraught with practical difficulties, not the least of which is the fact that the area is fully committed to heavily subsidizing the METRO rapid rail system. None of the three jurisdictions considered commuter rail in their plans, and EPA has not had sufficient time before this promulgation to adequately study the feasibility for commuter rail for the D.C. area. Thus, no provision is made for commuter rail in this promulgation. Nevertheless, EPA will continue to support all feasible transportation alternatives and encourages the three jurisdictions to study and promote the development of a commuter rail system in addition to METRO.

Retrofit Proposals

Comments received on the VSAD retrofit for pre-1968 light duty vehicles and the catalytic retrofit for 1971-74 fleet vehicles centered around the availability of technology and the economic justification of the retrofits in

light of the relatively small reduction in emissions that would be achieved area wide. However, the reductions for each vehicle retrofitted are substantial. EPA has discussed these comments in the General Preamble to the Transportation Control Plans in the November 6, 1973, FEDERAL REGISTER (38 FR 30631).

The State of Maryland objected to imposition of retrofits on used fleet vehicles because EPA has granted new vehicles a one year delay of the effective date of the emission standards. Since the regulation would not become effective until May 31, 1977, EPA does not believe imposition of the regulation will be in fact inequitable.

Testimony from classic and antique car collectors indicated that such cars are well maintained and rarely used, and that imposition of retrofit devices would reduce their historic value. These regulations now provide for exemption from retrofit and inspection requirements for classic and antique vehicles.

Maryland also stated that VSAD retrofit does not reduce emissions as claimed and that the retrofit could cause engine damage. Based on the results of tests and on the California experience it is the EPA's position that this is not the case for the model years covered in these regulations, and therefore, EPA is promulgating a retrofit strategy. However, the regulation allows the jurisdictions to require installation of any alternative device which achieves reductions equivalent to VSAD.

DRY CLEANING VAPOR CONTROLS

Considerable confusion was evidenced by the public comments concerning control of hydrocarbon vapors from dry cleaning processes. It was EPA's intention to propose the equivalent of Los Angeles' Rule 66, a well-established procedure. Comments from the industry indicated preference for the Rule 66 approach rather than the proposed regulation. The proposed regulation has been modified to conform to these suggestions.

BICYCLE ROUTES

Comments from area bicyclists emphasized three major topics. First, a strategy encouraging the use of bicycles as a mode of commuter travel should be adopted. Second, any system to encourage bicycle usage must protect bicyclists from automobiles. Third, bicycles should be safe from theft while parked. The local jurisdictions appeared willing to implement a network of bicycle routes. Based on the comments received, EPA is promulgating a regulation which will institute a network of commuter bikeways, thereby offering commuters another alternative mode of transit. The regulation will also assure safe parking for bicycles.

LAND USE MEASURES

Written and oral comments urged EPA to become more involved in land use in the D.C. area. EPA believes that changes in land use patterns are the most effective ways of controlling air pollution, and that no lasting solution of the pollution problem is possible without them. In the short run, such measures can contribute to VMT reduction by making growth of automobile traffic more difficult. For this reason, and as a start toward the long-term changes in land use that will be necessary, a measure providing for the pre-construction review of parking lots has been included in this plan. Further review of major new construction projects will be provided by "indirect source" regulations which EPA is under a court order to promulgate by December 15, 1973. These regulations were proposed October 30, 1973 (38 FR 29893).

INSPECTION/MAINTENANCE

Unanimous support for inspection/maintenance programs confirmed the feasibilty and acceptability of these proposed measures.

THE CONTENT OF THE PLAN

1. General. The measures approved and promulgated today may be divided into six categories, corresponding to the order in which the jurisdictions and in some cases, EPA decided to apply them.

(1) The Federal Motor Vehicle Control Program for new vehicles, which accounts for much of the emission reduction achieve. [sic]

(2) Additional controls on statutory source emissions. Both the State and EPA have extensive experience with such measures, and it can be predicted with confidence that none of them will cause significant economic or social disruption, even though some burdens on individual businesses may result.

(3) The establishment of a system for the annual emissions testing of automobiles and medium-duty vehicles, with provisions for the necessary corrective maintenance to be performed on those which fail. This is a measure that can easily be incorporated into a present annual safety inspection. Inspection/Maintenance programs are being adopted in virtually all transportation control plans.

(4) Moderate VMT reduction measures, resulting from such steps as the establishment of bus and bicycle lanes on existing road space, the review of new parking lots, and measures to encourage car pooling and to discourage commuter travel by automobile. These measures not only contribute directly to cleaning the air, but they also encourage more effective land use, the revival of urban centers, and reduced energy consumption. They are essential to the long-term maintenance of air quality standards.

(5) The reductions achievable from control of aircraft operations at Dulles and National Airports.

(6) EPA looked to the reductions that could be achieved by installing (or "retrofitting") emission control devices on existing vehicles. The more expensive of these devices —catalytic converters—are being reserved for fleet vehicles and trucks, which are generally owned by those

who can better afford the expense. The one retrofit of pre-1968 vehicles that is being promulgated is relatively inexpensive and achieves large emission reductions when compared to its cost. In addition, to ensure that emission reductions from heavy-duty gasoline powered vehicles are achieved, a regulation is being promulgated which established [sic] a heavy-duty retrofit program.

2. The specific measures. The specific measures contained in this plan, listed in the order indicated by the preceding discussion, are as follows:

Vapor Recovery from Gasoline Loading and Sales. At the present the system by which gasoline is first loaded into the storage tanks at the filling stations and then loaded into individual vehicles gives rise to very significant evaporative emissions of hydrocarbons at the points of transfer. The regulations being promulgated call for at least 90 percent recovery of vapors displaced under [sic] underground storage tanks are refilled and 90 percent recovery of vapors displaced when vehicular tanks are refilled. All three jurisdictions proposed to control such emissions as part of their transportation control plans. However, the necessary regulations have not yet been adopted. Accordingly, the Administrator is promulgating regulations for all three portions of the Region to give effect to the local strategies. When equivalent local regulations are adopted and submitted, EPA will rescind the regulations promulgated today. The adopted local regulations submitted may be in a form different from the regulations promulgated today, so long as equivalent emission reductions are achieved.

Use of Solvents in Dry Cleaning. Several of the solvents used at present in dry cleaning of clothes contribute to the formation of photochemical oxidants when they evaporate. These emissions can be controlled either by the use of nonreactive solvents or by appropriate measures to control evaporative emissions. The regulations being promulgated is in a form which corresponds to the controls imposed by Los Angeles County Rule 66. It provides for at least 85 percent control of emissions from these facilities. All three jurisdictions included a meas-

ure to control such emissions in their plans, and the EPA regulation promulgated today will give this strategy the required regulatory form. When equivalent local regulations are adopted and submitted, EPA will rescind the regulations promulgated today. It should be noted that the adopted regulations submitted may be in a form different from the regulations promulgated today, so long as equivalent emission reductions are achieved.

Inspection and Maintenance of Light and Medium Duty Vehicles. All three jurisdictions proposed the annual emission testing of light duty vehicles (those weighing under 6,000 pounds). The District of Columbia and Maryland systems will require all vehicles to be tested annually by "loaded" (dynamometer) test—the most effective form of inspection—and would require annual inspection for commercial vehicles. The Maryland plan did not set forth the program in much detail. The Virginia plan contains an "idle" test program.

The Administrator is approving in full the District of Columbia and Virginia programs for inspection and maintenance, and is promulgating a regulation designed to establish a similar program in the Maryland portion of the Region.

In addition, the Administrator has determined that medium duty vehicles (6,000-10,000 pounds gross weight) use engines similar to those used in light duty vehicles and can accordingly be inspected under the same program. Regulations are, therefore, being promulgated to subject such vehicles to inspection in all three parts of the Region.

Aircraft Ground Operations Control. Each of the three local plans claimed hydrocarbon emission reductions of 50 percent resulting from modifications of aircraft ground operating procedures. EPA is granting partial credit for this strategy based upon the assumption that operating standards will be effective by 1977. EPA calculations indicate that hydrocarbon reductions of 36 and 31 percent are achievable at National Airport and Dulles Airport respectively, using presently feasible ground control measures. The period during which ground operating procedures to reduce emissions can be employed is a function of aircraft taxi time and the length of delays prior to departure. These times are less at Dulles and National airports than at most other major airports. Thus, a 50 percent reduction, while perhaps achievable at airports which have long delays and long taxi times, is not possible for the two local airports. In addition, since four engine commercial aircraft do not operate out of National Airport, credit cannot be taken at that airport for the large emission reductions which would result from a shutdown of two of the engines during delays and taxi-in periods. The EPA study from which the 50 percent emission reduction figure was derived assumed the use of some operating procedures that are no longer considered feasible because of either safety or practical reasons.

The present projected emission reductions for Dulles and National Airports result from procedures which do not involve any sacrifice in safety. Comments received at public hearings indicate that these procedures are feasible and, in fact, are already in use by some airlines on a pilot-option basis. Presently, an EPA/FAA demonstration project is being conducted to determine the validity of calculated emission reductions. If the results show that reasonable and safe ground operating procedures do reduce emission levels, the Administrator will propose regulations for the implementation of each procedure.

Expansion of Bus Lanes. The conversion of road space to the exclusive use of buses or car pools is an essential VMT reduction measure. By reducing the amount of road space available to automobiles, driving tends to be discouraged, while such lanes will make more efficient mass transit possible to satisfy the displaced travel demand. Each of the three jurisdictions in the Region submitted a list of corridors it proposed to convert to the exclusive use of buses. The Administrator is approving these locations and is promulgating supplementary requirements to ensure that such lanes are set aside on schedule.

Under the local strategies approved today, two exclusive bus lanes—one inbound lane during the morning

peak period, and one outbound lane during the evening peak period—would be established along the following corridors:

a. U.S. Route 50 from New Carrollton, Maryland to the Washington CBD.

b. Pennsylvania Avenue and Maryland Route 4 from Andrews Air Force Base to the CBD.

c. South Capital Street from Bolling Air Force Base to Independence Avenue.

d. George Washington Parkway—Washington Street —Jefferson Davis Highway from Fort Hunt to National Airport.

e. U.S. Route 50 from Seven Corners to the CBD.

f. Dulles Access Road—Virginia 123—George Washington Memorial Parkway from the Reston Interchange to the CBD.

g. Georgia Avenue—13th Street from the Maryland boundary to the CBD.

h. U.S. Route 240 from Old Georgetown Road to Sheridan Circle.

i. New Hampshire Avenue from U.S. Route 29 to Grant Circle.

The addition of bus lanes in these corridors will complement the existing system of bus lanes and will help assure that an extensive network will be implemented.

Expansion of Bus Transit System. An essential element of any transportation control plan for the National Capital Area is improved mass transit. Accordingly, each of the three plans proposed the area wide addition of 750 buses to the existing fleet. It will be necessary to expand the existing bus fleet to transport those commuters who no longer intend to use the automobile to drive to work. The Washington Metropolitan Area Transit Authority (WMATA) has already instituted a five-year program that was to effect a modest increase in fleet size and a retirement of the oldest buses in the current fleet. WMATA now plans to modify their original program to allow a more rapid increase in fleet size to meet this need. The increase will be gained by retaining some of the older, but serviceable buses (e.g., air-conditioned, good working order) that had been programed for retirement. When the Metro Rapid Rail System comes into

operation, the new buses will also be used to provide the cross-town or suburb-to-suburb service that Metro will not provide, and to provide feeder routes to Metro stations.

The following chart shows WMATA's current anticipated timetable for increasing the fleet size through 1977, and a modified timetable which could be implemented to increase fleet size to meet the needs of the transportation plans. In addition, the 369 buses currently planned for retirement by June, 1974, could be retained to augment further the fleet size should it become necessary.

Date	New buses delivered	5-year plan retirement	Modified plan retirement	Annual net increase	Fleet size
1973					1,779
June, 1974	620	508	369	251	2,030
December, 1974	175	150	0	175	2,205
December, 1975	175	150	0	175	2,380
1977	150	150	0	150	2,530
				751	

Of the 251 net increase in buses for 1974, approximately 100 buses will be used to augment existing service lines, and the remaining (approximately 150) buses will be deployed on new lines, including cross-city and cross-county routes.

In addition to an increase in the size of bus fleets, WMATA is also committed to encouraging bus ridership. Additional phone lines have been installed, and a computerized phone route service is scheduled for completion by June, 1974. New maps are in final printing. EPA encourages WMATA to make schedules and maps as widely available as possible, for example in shopping areas, government buildings, and major employment centers.

This promulgation contains a compliance schedule which is primarily intended to insure that the necessary commitments for funding will be forthcoming from the affected jurisdictions in a timely manner.

Elimination of Free Commuter Parking and Mass Transit Incentive. Commuter travel, since it repeats it-

self predictably from day to day, is the segment of daily travel most easily shifted to car pools or other forms of mass transit.

One way to provide an adequate incentive for employees to switch to mass transit commuting is by an increase in the parking charge over and above the current rate to encourage use of mass transit by commuters. This incentive could promote use of mass transit still more if the revenues from it were channelled back to the mass transit system. The National Capital plan includes such a provision.

The plans submitted by the three jurisdictions and supporting documents suggested that employers in areas adequately served by mass transit should eliminate free parking for their employees, and also impose an additional two dollar per day surcharge that would be used to subsidize mass transit. The plans suggested that EPA should take action to impose such a rate on the Federal Government, and that the three jurisdictions would then impose it on private employers and on commercial lots.

Accordingly, EPA is today promulgating regulations that would impose on the Federal establishments commercial-type charges plus the Mass Transit Incentive Surcharge that the local jurisdictions have requested thereby eliminating free parking for Federal employees as suggested in the local plans. The surcharge and the commercial rate requirements are part of the same package; neither will be imposed apart from the other. These strategies will take effect in 1975 and have been worked out with the cooperation of the General Services Administration. They will apply to all agencies of the executive, legislative, and judicial branches of government. The Administrator is also approving the commitments of the three local jurisdictions to impose the same obligations on private employers and on commercial parking lots, and is promulgating enforceable compliance schedules to make sure that this is done.

Defining the areas where the commercial rates and surcharges will apply has been a difficult task. The general approach taken by EPA is consistent with the re-

gional strategy of applying the parking measures only in employment areas which are adequately served by mass transit at present, or which are capable of being adequately served by mass transit by mid-1975. The areas listed below are those which, in the best judgment of EPA, meet this test.

District of Columbia Central Business District
Federal Triangle Area
Capitol Hill Area
Southwest Mall—Waterside Mall Area
Friendship Heights Area
Prince Georges Plaza Area
Downtown Silver Spring Area
National Institute of Health Corridor Area
Rosslyn Area
Crystal City Area
Pentagon
Tyson's Corner Area
Downtown Alexandria.

The concept of areas adequately served by mass transit can be approached in several ways. In order to permit the local jurisdictions as much latitude as possible in the plan, the Administrator will allow each jurisdiction to delete or add areas, provided that an affirmative showing is made to the Administrator that such changes are appropriate and that no other areas are capable of being considered adequately served. Any such substitution or affirmative showing shall be submitted no later than June 30, 1974. By June 30, 1974, each jurisdiction will be required to submit exact definitions or boundaries of the areas included on the above list or the alternate areas selected. The three jurisdictions must conduct a coordinated study of the entire Region defining precisely the areas covered. The list of areas must be updated at least once per year beginning June 30, 1975. Additional areas must be included as mass transit service is increased, unless the jurisdiction can affirmatively demonstrate that it is impossible for any additional areas to be included.

It must be emphasized that the commercial rates and Mass Transit Incentive will not go into effect until mass transit has been significantly expanded by the transit improvement measures outlined above. Therefore, it is expected that these measures will become effective on or about June 30, 1975. However, if the bus system expansion does not proceed substantially as planned, the Administrator may adjust the effective date of the measures to coincide with mass transit development. In fact, the Mass Transit Incentive Surcharge approved in this final promulgation embodies this concept by proceeding on a phased implementation schedule. The original proposals by the jurisdictions included a strategy for the imposition of a $2.00 per day surcharge on commuter parking beginning in 1975. In order to be assured that mass transit will be available to provide the alternate mode of travel for commuters displaced by the surcharge and to allow commuters time to adopt other transit modes, EPA has modified the schedule for imposition of the Mass Transit Incentive Surcharge to proceed on a phased implementation schedule.

The new schedule has been based on WMATA's most recent anticipated timetable for growth of its fleet. The Mass Transit Incentive Surcharge would initially be set at $0.50 per day and would increase up to $2.00 per day on the following schedule:

Effective date:	*Mass transit incentive surcharge (per day per space)*
June 30, 1975	$0.50
Jan. 1, 1976	1.00
June 30, 1976	1.50
Jan. 1, 1977	2.00

Any net revenues collected from the Mass Transit Incentive Surcharge on commercial, governmental and private parking facilities will be used for the further expansion or operation of the mass transit system.

The commercial rates and surcharge will be imposed only on those who park for six (6) or more hours at a time. It should accordingly have little or no adverse effect on short term parking by shoppers and on the economic health of existing business districts such as downtown Washington, but should instead operate almost exclusively to change commuting habits.

One other topic deserves discussion under this section. This is the off-street parking space reduction which was proposed as a contingency to the surcharge. Testimony received asserted that if spaces were reduced commuters would take up all available spaces leaving few, if any, for shoppers. Therefore, this strategy would have little effect on commuter trips while shoppers would be adversely affected. Also studies conducted by Pratt and Associates for COG and EPA have indicated that, in order to achieve VMT reduction similar to that expected by the imposition of the surcharge, a parking space reduction much larger than the 10-15 percent proposed would be necessary.

Finally, these strategies provide exemption for handicapped persons.

On-Street Parking Restrictions. To make the parking regulation strategies described above complete, each of the three local jurisdictions submitted measures to EPA that would bar on-street parking by commuters in the areas where the surcharge is in effect. In addition, the District of Columbia proposed to restrict on-street parking on major arterial streets and proposed to institute a permit system so that available on-street spaces would be used by residents of the neighborhood rather than by commuters. These measures are being approved by the Administrator subject, in the cases of Virginia and the District of Columbia, to compliance schedules to correct technical deficiencies in the strategy.

Computerized Car Pooling. The strategies described above can be expected to cause a considerable shift to car pool commuting among employees. Individual automobiles, which are designed to carry four to six persons and which currently carry an average of approximately

1.4 persons per trip in the Region, represent the largest pool of unused transit capacity available. Car pooling, properly administered, could result in a great VMT reduction.

Each of the three local jurisdictions suggested the establishment of a computer-aided car pool matching system to assist and encourage the shift to car pools. This portion of the District of Columbia, Maryland and Virginia plans is being approved in full.

Bicycle Lanes. As a result of comments received at the public hearings, the Administrator is including regulations establishing a bicycle lane-bicycle rack strategy. A safe and widespread system to encourage bicycle usage by present users of motor vehicles has the potential of decreasing area wide VMT by about one percent. Reduction in this range can be achieved by diverting 12-25 percent of urban work trips of less than 4 miles to bicycle commuting from auto commuting. This estimate takes no account of the potential for also shifting other categories of trips under four miles (such as recreational or shopping trips) to bicycles. To accomplish this result the regulation requires the jurisdictions to establish a bicycle lane network of no less than 180 miles area wide by July 1, 1976. Such a network should provide feeder routes to Metro and railroad stations, and should link all major residential sections of the city with centers of employment, as well as major educational institutions and commercial centers.

The bicycle lane network will be implemented following a comprehensive study of all aspects of present and potential bicycle usage. The study will determine the best locations for bicycle routes, both on-street and off-street, and will examine the costs of the bicycle land and rack network.

A pilot bicycle route from Key Bridge past the White House and the U.S. Capitol to Pennsylvania Avenue and Alabama Avenue, S.E. will be established prior to April 1, 1974. An evaluation of this route shall be included in the comprehensive study. This route was chosen because it provides direct access to the Central Business District

from areas of the city where present bicycle use is high, and because it will enable connection with Virginia routes.

A system of bicycle racks will be required by June 1, 1975. Bicycle racks or other safe storage facilities are an essential part of a bicycle plan. Without them, the threat of theft may deter potential riders from using even the most extensive bicycle lane network. The regulations require that any employer, building, or facility providing motor vehicle parking space must also provide bicycle parking in an equitable ratio: 1 bicycle parking space capable of storing 12 bicycles in a rack for every 75 motor vehicle parking spaces. Racks should be located to be safe from both motor vehicle traffic and theft. It would be desirable that outdoor racks be sheltered by a roof and enclosed for adequate security.

The inspection and maintenance program, which will be run as part of the prese annual safety inspection program, is expected to cost an average of $2 per vehicle inspected. Maintenance on vehicles that fail a first test so that they can pass a retest will cost an average of $3 above normal maintenance costs. The additional maintenance which should result from this program will also improve the fuel economy of the inspected vehicles.

The controls on gasoline transfer will save energy as well as reduce emissions, since the gasoline that would otherwise have evaporated will be collected by the control mechanism and be put back into the distribution system. These controls are expected to conserve approximately four million gallons of gasoline per year. Controls on aircraft ground operations can also be expected to save energy.

The various retrofit measures vary in expense, from $20 for a VSAD system to an estimated $130 for a catalytic converter. Although such devices are effective in reducing emissions, there are no significant secondary benefits from their installation except to avoid the need for less desirable alternatives. The most costly of these devices—the catalytic converter—will be reserved for use on fleet vehicles and taxicabs.

In some instances, as noted above, measures have been promulgated that were not formally proposed as regulations.

Parking Review. In all three jurisdictions, EPA proposed, as a contingency measure, a regulation for the review of new parking facilities to determine whether they would be consistent with the plan's VMT reduction goals. The public comments received stated that this measure was a "reasonably available alternative" measure and therefore should be promulgated not as a contingency but for general applicability. EPA agreed with the comments received, and intended to include this regulation as part of this action. However, in response to a court order this regulation was promulgated on November 12, 1973 (38 FR 31536, November 15, 1973). The regulation as promulgated requires review of all parking facilities over 250 spaces capacity prior to construction or modification.

Since VMT reductions are calculated from a predicted growth curve, and not simply from current levels, this regulation will help reduce VMT levels by reducing the future supply of parking on which future VMT growth would depend.

Although review of new highways was not proposed by any of the jurisdictions, there was substantial public comment on the issue of highway construction. It should be noted that Section 109(j) of the Federal Aid Highway Act, as amended, 23 U.S.C. 109(j), requires any Federal aid highway to be consistent with applicable implementation plans under the Clean Air Act. The plan for the Region is designed to provide a substantial VMT reduction. Accordingly, if any new Federal aid highway in the Region could be expected to lead to a VMT increase or to interfere with the attainment or maintenance of air quality standards, it would not be consistent with this plan.

Heavy Duty Vehicle Exclusion/Heavy Duty Vehicle Retrofit. The District of Columbia proposed to effect a 50 percent reduction in heavy duty vehicle emissions by banning all but specifically exempted deliveries from

6 a.m. to 9 a.m. This measure is disapproved because of the practical enforcement problems presented in public hearing testimony, because of the uncertain emissions reduction credit that can be assumed in the absence of precise definition of proposed exemptions (e.g., milk trucks, postal service trucks, sanitation trucks), and because of lack of detail in the local proposal. As an alternative measure, the possibility of installing appropriate retrofit devices on medium (6,000-10,000 pound, GVW) and heavy duty vehicles, as proposed by the State of Maryland and the Commonwealth of Virginia, has been investigated. Preliminary results of a vehicle test program, sponsored jointly by the EPA and the City of New York, indicate that catalytic retrofit of medium duty vehicles is indeed feasible, although application of the same devices to heavy duty vehicles indicated problems of deterioration of the retrofit device and the vehicle's exhaust system. Since the jurisdictions have agreed to participate in the ongoing test program, the Administrator has determined that catalytic retrofit will provide substantial reductions in both carbon monoxide and hydrocarbon emissions for all medium duty vehicles which are able to operate properly on unleaded 91 RON gasoline, and is promulgating such a regulation. In addition, for those medium duty vehicles which are unable to operate on 91 RON gasoline, an EGR-Airbleed system will be required.

Air/Fuel Retrofit of Heavy Duty Gasoline Powered Vehicles (greater than 10,000 pound GVW). Since the test program sponsored jointly by the EPA and New York City has suggested serious deterioration effects resulting from the use of catalytic retrofit devices on heavy duty gasoline powered vehicles, it is apparent that the state-of-the-art is insufficiently advanced to permit application of this control measure. However, the same test program has demonstrated the significant emission reductions which result from installation of air/fuel devices, exhaust gas recirculation, or carburetor modifications on heavy duty vehicles. Accordingly, the Administrator is promulgating a regulation which will require in-

stallation of appropriate noncatalytic retrofit devices on all heavy duty gasoline powered vehicles. In the event that the medium duty and heavy duty gasoline powered vehicle retrofit programs do not achieve the reductions anticipated, or the jurisdictions do not vigorously implement either programs, other control measures would become necessary.

Catalytic Retrofit of Fleet Vehicles. Since the emission reductions claimed by the jurisdictions for aircraft emissions could not be allowed in full, other measures which are "reasonably available" must be applied to meet the standards by the statutory deadline of 1977. For this reason, the Administrator is promulgating in essentially the form proposed a regulation requiring the retrofit of all light duty vehicles that are part of business or government vehicle fleets. The use of such a catalyst will reduce emissions by approximately 50 percent on each vehicle retrofitted. Installation of these catalysts will begin in mid-1976.

VSAD Retrofit of Pre-1968 Automobiles. Since the emission reductions claimed by the jurisdictions for aircraft emissions could not be allowed in full, it is necessary for the Administrator to promulgate "reasonably available" measures to meet the standards by the 1977 deadline. For this reason, the Administrator is promulgating, in essentially the form proposed, a regulation requiring the installation of VSAD devices on pre-1968 vehicles. The regulation has been modified to allow a jurisdiction to use any other device which can be demonstrated to achieve equivalent emission reductions on this class of vehicles (namely 9 percent reduction in CO and 25 percent reduction in HC). In addition, an exemption from the requirements of this regulation is allowed for antique or classic vehicles.

Monitoring and Reporting Regulation. This measure is included in the final rulemaking for all three jurisdictions to provide for monitoring the reductions that will result from the application of these regulations to mobile sources. This reporting will allow EPA sufficient time to evaluate the effectiveness of the measures included in this

plan. It will further provide the data upon which EPA will determine if any modification of the measures is necessary.

SUMMARY OF EXPECTED EMISSIONS REDUCTION FROM PLAN MEASURES

	Hydrocarbons		Carbon Monoxide	
	Tons per Peak Period	Percent of Total Reduction Required	Tons per Peak Period	Percent of Total Reduction Required
Base year emissions	63.3		1133	
Total reductions required	42.4		632	
Reductions from FMVCP	29.7	70	557	88
Stationary source emissions without control strategy	14.3			
Expected reductions from:				
a. Dry cleaning vapor recovery	1.1	2.6		
b. Gasoline handling vapor strategy	5.0	11.7		
Mobile source emissions without control strategy	19.3		576	
Expected reductions from:				
a. Transportation package	2.9	6.9	26	4.1
b. Inspection/maintenance	1.6	3.8	34	5.4
c. VSAD retrofit	.4	.9	3	.5
d. Catalytic retrofit of fleet automobiles	.2	.5	5	.8
e. Truck retrofit program	.5	1.2	20	3.1
f. Aircraft program	1.0	2.4		
Total reductions	42.4	100.0	645	101.9
Emissions remaining	20.9		488	

FINDINGS

The plan approved today applies a full range of the emission controls that have been used in transportation control plans for other areas of the country. The provisions for stationary source control, inspection and maintenance, bus lanes, computer car pool matching, parking lot review, and certain retrofits are common to many plans. The provisions for special charges on commuter parking is also being used in other heavily polluted areas of the country such as Boston and in California.

ECONOMIC AND SOCIAL EFFECTS

EPA, while recognizing that inconvenience to some individuals will necessarily result from the National Capital Area plan, believes that there will not be significant

economic or social disruption. In general, commuter travel by single-passenger automobile will become much less attractive as that mode of transportation loses many of its present advantages. This, however, should not be seen as a deliberate attempt by EPA to hinder and frustrate the many individuals who presently rely upon the automobile to commute to and from work. The transportation plan provides for alternative transit choices which, when fully operational, will make commuting far easier than it is today. In the long run, then, persons in the metropolitan area should benefit from cleaner air, less vehicle congestion and a more balanced system of transportation.

To achieve this result, the Region's bus fleet will be greatly expanded within the next few years and many additional routes and service areas will be established. The efficiency of the entire bus system will be further improved by the new busline network. The 180 miles of bicycle lanes will increase the attractiveness of travel by bicycle. Car pooling will become significantly easier as the computer-aided car pool matching system goes into operation. And, in the near future, the new subway system will have a very positive effect.

There will be other significant advantages to the plan announced today. Recent events have made clear how essential it is to economize on energy use. Transportation at present accounts for over a quarter of the energy consumed in this country. Automobiles consume three-quarters of the energy used for transportation, or about twenty percent of the total. Only about a quarter of the energy consumed by an automobile engine does useful work. The rest is wasted. Indeed, even the energy used to drive the vehicle is largely wasted in any functional sense, since most American cars are far larger and heavier than they need to be for their normal job of moving one or two people around. Our present auto-based transportation system using standard-sized cars moves human beings about by moving two tons of metal along with each of them. There can be no better place to begin to end our exclusive reliance on the automobile than in the cities, where this step will not only save energy, but will also protect human health by cleaning up the air.

These measures are not expected to affect the shopping centers of downtown Washington, since the most significant of them—the parking surcharge a' ' the bus lanes —will only affect those traveling during the commuting hours and parking most of the day in one location.

The inspection and maintenance program, which will be run as part of the present annual safety inspection program, is expected to cost an average of $2 per vehicle inspected. Maintenance on vehicles that fail a first test so that they can pass a retest will cost an average of $3 above normal maintenance costs. The additional maintenance which should result from this program will also improve the fuel economy of the inspected vehicles.

The controls on gasoline transfer will save energy as well as reduce emissions, since the gasoline that would otherwise have evaporated will be collected by the control mechanism and be put back into the distribution system. These controls are expected to conserve approximately 11 thousand gallons of gasoline per day. Controls on aircraft ground operations can also be expected to save energy.

The various retrofit measures vary in expense, from $20 for a VSAD system to an estimated $130 for a catalytic converter. Although such devices are effective in reducing emissions, there are no significant secondary benefits from their installation except to avoid the need for less desirable alternatives. The most costly of these devices—the catalytic converter—will be reserved for use on fleet vehicles and taxicabs.

In some instances, as noted above, measures have been promulgated that were not formally proposed as regulations. This was done because of the requirement of the court order that a plan applying all "reasonably available" measures be promulgated for the Region without further delay. EPA, however, invites public comment on these and other aspects of today's promulgation, and will revise the plan if revision seems appropriate in the light of the comments received. Comments should be submitted no later than December 31, 1973, to the Transportation Control Staff, Office of Air Programs, Room 937-W, En-

vironmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

It is the desire of the Environmental Protection Agency that the plan to attain and maintain the carbon monoxide and photochemical oxidant standards in the National Capital Interstate Air Quality Control Region be a Regional plan devised and carried out by the affected local jurisdictions or their representatives. The combination of strategies approved and promulgated today to a great extent form such plans. Furthermore, if the three local jurisdictions submit additional transportation control measures and these measures are approvable, portions of this plan can be rescinded. It should be noted, however, that this plan constitutes a final rulemaking and its provisions are enforceable under the Clean Air Act.

(Sec. 110(c) and 301(a), Clean Air Act (42 U.S.C. 1857c-5(c) and 1857(g).)

Dated: November 20, 1973.

RUSSELL E. TRAIN,
Administrator.

Subpart J of Part 52 of 40 CFR Chapter I is amended as follows:

Subpart J—District of Columbia

1. In § 52.470 paragraphs (c)(2) and (c)(3) are revised to read as follows:

§ 54.470 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

* * * * *

(2) April 28, 1972, by the District of Columbia.

(3) April 19, July 9 and 16, 1973, by the District of Columbia.

* * * * *

2. Section 52.472 is amended to read as follows:

§ 52.472 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves the District of Columbia's plan for the attainment and maintenance of the national standards.

(b) With respect to the transportation control strategies submitted on April 19, July 9, and July 16, 1973, the Administrator approves the measures for parking surcharge, car pool locator, vehicle inspection, express bus lanes, increased bus fleet and service, elimination of free parking by private employers, with exceptions set forth in §§ 52.476, 52.483, 52.486, and 52.479.

(c) With respect to the transportation control strategies submitted on April 19, July 9, and July 16, 1973, the Administrator disapproves the strategies for heavy duty vehicle exclusion, as set forth in §§ 52.474 and 52.483.

3. Section 52.474 is revised to read as follows:

§ 52.474 Legal authority.

(a) The requirements of § 51.11(c) are not met with respect to the heavy duty vehicle restriction strategy because of lack of legal authority for the purposes claimed.

4. In Section 52.476 paragraphs (c) through (h) are added to read as follows:

§ 52.476 Compliance schedules.

* * * *

(c) With respect to transportation control strategies submitted by the District of Columbia, the requirements of § 51.15 are not fully met for the measures for parking surcharge, elimination of free on-street commuter parking, elimination of free employee parking, increased bus fleet and service, and exclusive bus lanes. Provisions to implement the requirements of § 51.15 are promulgated in this section.

(d) With respect to the parking surcharge measure approved in § 52.472:

(1) The District of Columbia shall no later than June 30, 1974, submit to the Administrator for his approval a

precise description of areas within the District of Columbia which are at that time adequately served by mass transit, and those areas which in the judgment of the District of Columbia will be adequately served by mass transit by June 30, 1975. The documentation and policy assumptions used to select these areas shall be included with this submission.

(2) The District of Columbia shall by June 30, 1975, and each succeeding year submit to the Administrator for his approval a revised list of those areas which are adequately served by mass transit. Additional areas must be included as mass transit service is increased, unless the District of Columbia can affirmatively demonstrate that no additional areas can be included.

(3) The District of Columbia shall, no later than October 1, 1974, submit to the Administrator legally adopted regulations instituting the parking surcharge on all long-term (6 hours) parking in all commercial parking facilities (except to the extent they are used for residential parking) and all facilities subject to §§ 52.476 (f) and 52.486 in those areas adequately served by mass transit within the District of Columbia portion of the National Capital Interstate AQCR. The parking surcharge shall be complemented and collected according to the following schedule:

June 30, 1975-Dec. 31, 1975	$0.50
January 1, 1976-June 30, 1976	1.00
July 1, 1976-Dec. 31, 1976	1.50
January 1, 1977	2.00

All monies collected under this program shall be turned over to the District of Columbia. All proceeds from this program shall be used for the expansion and operation of mass transit except for a reasonable amount for the costs of administration and collection of the surcharge. Any handicapped person who is unable to use mass transit shall not be subject to the surcharge. The parking surcharge shall not apply to any parking begun between the hours of 6 p.m. and 2 a.m.

(e) With respect to the measure for elimination of free on-street commuter parking approved in § 52.427:

(1) The District of Columbia shall, no later than June 30, 1974, submit to the Administrator for his approval a compliance schedule, including legally adopted regulations, enforcement procedures, and a description of resources available. The compliance schedule shall provide:

(i) For implementing the on-street commuter parking ban program in all areas within which a surcharge will be required by paragraph (d) of this section. The program shall prohibit all parking for more than two hours by non-residents of the area subject to the ban during the hours from 7 p.m., Monday through Friday (excepting holidays) on any street within such areas. The program shall also provide for a sticker system, under which residents of such an area may be exempted from the ban, and for a system (whether by notification to the enforcement authorities, or otherwise) for also exempting bona fide visitors to residents of such areas from the ban.

(ii) The precise resources that will be devoted to enforcing this measure, the method of enforcement to be used (for example, chalking tires), and the penalties for violation. The compliance schedule shall at a minimum provide that violators shall be subject to a $10.00 fine.

(f) With respect to the measure for elimination of free employee parking approved in § 52.472:

(1) For purposes of this paragraph "Commercial Parking Rate" shall mean the average daily rate charged by the three operators of parking facilities containing 25 or more commercial parking spaces that are closest in location to any employee parking space affected by this paragraph.

(2) The District of Columbia shall, no later than June 30, 1974, submit to the Administrator for his approval a precise description of areas within the District of Columbia which are at that time adequately served by mass transit, and those areas which in the judgment of the District of Columbia will be adequately served by mass transit by June 30, 1975. The documentation and policy assump-

tions used to select these areas shall be included with this submission.

(3) The District of Columbia shall by June 30, 1975, and each succeeding year, submit to the Administrator for his approval a revised list of those areas which are adequately served by mass transit. Additional areas must be included as mass transit service is increased, unless the District of Columbia affirmatively demonstrate that no additional areas can be included.

(4) The District of Columbia shall no later than October 1, 1974, submit to the Administrator legally adopted regulations instituting commercial parking rates by June 30, 1975, on all employers, public (excluding Federal Government) or private, with 25 or more employee spaces located in those areas adequately served by mass transit within the District of Columbia portion of the National Capital Interstate AQCR. Any handicapped person who is unable to use mass transit shall not be subject to the commercial parking rate. The commercial parking rate shall not apply to employee parking begun between the hours of 6 p.m. and 2 a.m.

g) With respect to the measure for increased bus fleet and service approval in § 52.472: The District of Columbia shall no later than January 31, 1974, submit a compliance schedule to put the program into effect. The compliance schedule shall, at a minimum, provide that the District of Columbia shall, on or before March 1, 1974, submit to the Administrator a statement, signed both by a representative of the Washington Metropolitan Area Transit Authority (WMATA) indicating that, in the judgment of both of them, financial commitments have been made by the District of Columbia for the purchase of buses. This statement, taken in conjunction with the commitments made by the Commonwealth of Virginia and the State of Maryland, must be sufficient to enable WMATA to purchase in the fiscal year beginning the next July 1, the number of buses below:

Fiscal Year 1975—175 buses
Fiscal Year 1976—150 buses
Fiscal Year 1977—150 buses

The statement shall also indicate that WMATA has in fact committed to purchase that number of buses.

(h) With respect to the express bus lane measure approved in § 52.472:

(1) The District of Columbia shall no later than January 1, 1975, establish exclusive bus lanes in the following corridors:

(i) U.S. Route 50 from District of Columbia-Maryland boundary to Washington Central Business District (hereafter CBD).

(ii) Pennsylvania Avenue from the District of Columbia-Maryland boundary to the Washington CBD.

(iii) South Capitol Street from Bolling Air Force Base to Independence Avenue.

(iv) U.S. Route 50 from the District of Columbia-Virginia boundary to the Washington CBD.

(v) In the District of Columbia portion of a route connecting the Dulles Access Road from the Reston Interchange to the Washington CBD.

(vi) Georgia Avenue-13th Street from the District of Columbia-Maryland boundary to the Washington CBD.

(vii) U.S. Route 240 from the District of Columbia-Maryland boundary to Sheridan Circle.

(viii) New Hampshire Avenue from the District of Columbia-Maryland boundary to Grant Circle.

Such lanes shall be inbound during the morning peak and outbound during the evening peak period.

(2) The District of Columbia shall submit to the Administrator, no later than March 1, 1974, a schedule showing the steps which it will take to establish exclusive bus lanes in those corridors enumerated in paragraph (h) (1) of this section. Each schedule shall be subject to the approval by the Administrator and shall include as a minimum the following:

(i) Identification of streets or highways that shall have portions designated for exclusive bus lanes.

(ii) The date by which each street or highway shall be designated.

(3) Exclusive bus lanes must be prominently indicated by distinctively painted lines, pylons, overhead signs, or physical barriers.

(4) Application for substitution of a corridor for any of those listed in paragraph (h) (1) of this section shall be made by the District of Columbia for the Administrator's approval no later than March 1, 1974.

5. Section 52.479 is amended by adding paragraphs (b) and (c) to read as follows:

§ 52.479 Source surveillance.

* * * * *

(b) The requirements of § 51.19(d) are not met with respect to the strategies for parking surcharge, car pool locator, vehicle inspection, express bus lanes, increased bus fleet and service, elimination of free on-street parking, and elimination of free parking by employers.

(c) Monitoring transportation trends. (1) This section is applicable in the District of Columbia portion of the National Capital Interstate Air Quality Control Region.

(2) In order to assure the effectiveness of the inspection and maintenance program approved in § 52.472 and the retrofit devices required pursuant to §§ 52.490, 52.492, 52.494, 52.495, and 52.496, the State shall monitor the actual per vehicle emissions reductions occurring as a result of such measures. All data obtained from such monitoring shall be included in the quarterly report submitted to the Administrator by the State in accordance with § 51.7 of this chapter. The first quarterly report shall cover the period January 1 to March 31, 1976.

(3) In order to assure the effective implementation of the parking surcharge, car pool locator, express bus lanes, increased bus fleet and service, elimination of free on-street community parking and elimination of free parking by employers, the District of Columbia shall monitor vehicle miles traveled and average vehicle speeds for each area in which such measures are in effect and during such time periods as may be appropriate to evaluate the effectiveness of such a program. All data obtained from such monitoring shall be included in the quarterly report submitted

to the Administrator by the District of Columbia in accordance with § 51.7 of this chapter. The first quarterly report shall cover the period from July 1 to September 30, 1974. The vehicle miles traveled and vehicle speed data shall be collected on a monthly basis and submitted in a format similar to Table 1.

TABLE 1

Time period Affected area			
	Roadway type	VMT or average vehicle speed	
		Vehicle type (1)	Vehicle type (2)[1]
Freeway			
Arterial			
Collector			
Local			

[1] Continue with other vehicle types as appropriate.

(4) No later than March 1, 1974, the District of Columbia shall submit to the Administrator a compliance schedule to implement this section. The program description shall include the following:

(i) The agency or agencies responsible for conducting, overseeing, and maintaining the monitoring program.

(ii) The administrative procedures to be used.

(iii) A description of the methods to be used to collect the emission data, VMT data, and vehicle speed data; a description of the geographical area to which the data applies; identification of the location at which the data will be collected; and the time periods during which the data will be collected.

§ 52.481 [Amended]

6. In § 52.481 the attainment date table is revised by replacing the date "May 31, 1975", for attainment of the national standards for carbon monoxide and photochemical

oxidants (hydrocarbons) in the National Capital Interstate Region with the date "May 31, 1977."

§ 52.482 Transportation and land use controls.

(a) To ensure implementation of the vehicle emission inspection program approved in § 52.472, the District of Columbia shall submit legally adopted regulations by March 1974, which contain the same elements as the proposed regulations contained in the July 9, 1973, submission on pages 19 and 20.

8. Section 52.483 is revised to read as follows:

§ 52.483 Control strategy: Carbon monoxide and photochemical oxidants (hydrocarbons).

(a) The requirements of § 51.14(a)(2)(iv) are not met because the plan does not specify the date on which the elimination of on-street parking measures would become effective. The requirements of this section are partially met with respect to the increased bus fleet and service strategy since the plan does not identify secure, adequate commitments to insure that the fleet expansion and service will occur within the proposed schedule.

(b) The requirements of § 51.14(c) are not met because the approvable measures are not adequate to attain the national standards. With respect to the reduction in emissions claimed for control of aircraft taxiing operations, they are higher than those which the Administrator believes can be realistically and safely obtained, and no control measures are contained to implement them. With respect to the reduction claimed for heavy duty vehicle exclusion, there is not adequate authority to achieve the reductions claimed.

§ 52.484 [Reserved]

9. Section 52.484 is revoked and reserved.

§ 52.485 [Reserved]

10. Section 52.485 is revoked and reserved.

11. Section 52.486 is added to read as follows:

§ 52.486 Rules and regulations.

(a) The requirements of § 51.22 are not met because the plan does not contain adopted regulations for reducing evaporative losses from gas handling and dry cleaning. Substitute regulations are promulgated in §§ 52.487, 52.488, and 52.489.

12. Sections 52.486 through 52.496 are added to read as follows:

§ 52.486 Federal parking facilities.

(a) Definitions. For the purposes of this section,

(1) "Administrative Officer" means the Administrator of General Services, the Marshal of the Supreme Court of the United States, the Architect of the Capitol, and any other representative of a Federal Government entity designated as such for the purposes of this section by the Administrator.

(2) "Commercial value" means a value which approximates commercial charges for space and services for like facilities in the immediate vicinity of a Federal facility. In the absence of commercial facilities, commercial value should be established using the fair market value of a Federal facility and the cost of services being provided as a basis.

(3) "Designated area" means an area defined by § 52.476(d)(1).

(4) "Federal Government entity" means a Federal department, agency, bureau, board, office, commission, district, or an instrumentality of the executive, legislative, and judicial branches of the Federal Government. Foreign embassies are not subject to this regulation.

(5) "Parking facility" (also called "facility") means any lot, garage, building or structure, or any combination or portion thereof, in or on which motor vehicles are temporarily parked.

(6) "Residential parking space" means any parking space used primarily for the parking of vehicles of persons residing within one-half mile of the space.

(b) This section shall be applicable in the District of Columbia portion of the National Capital Interstate Air Quality Control Region.

(c) Commencing July 1, 1975, rates based upon the commercial value shall be charged employees for parking a motor vehicle in any facility which is owned, operated, leased, or otherwise controlled by any Federal Government entity and which is located in a designated area; *Provided, however*, That such commercial value shall not apply (1) to parking begun between the hours of 6 p.m. and 2 a.m., (2) to residential parking spaces contained in or on the facility, (3) to vehicles owned or leased by the Federal Government, and (4) to any vehicle exempted under subparagraph (d) (2) of this section.

(d) (1) Each Administrative Officer shall adopt a plan which shall require each Federal Government entity under his authority to which this section applies to implement paragraph (c) of this section.

(2) The plan may provide for exemption from the requirements of paragraph (c) of this section for space assigned to handicapped persons who are physically unable to use mass transit.

(3) The Administrator of the Environmental Protection Agency will promulgate such a plan by May 1, 1974, for any parking facility of any Federal Government entity to which this section applies which is not under the authority of an Administrative Officer. Any such Federal Government entity may apply to the Administrator before January 4, 1974, for designation of an "Administrative Officer" and permission to submit its own plan.

(4) Each Administrative Officer shall submit to EPA, no later than July 1, 1974, an outline of the plan required by this paragraph, and the effective date of the plan, which date shall be no later than July 1, 1975. The plan required by this paragraph covering all subject facilities of government entities which are part of the executive branch of the Federal Government shall be coordinated with the Administrator of General Services.

§ 52.487 Gasoline transfer vapor control.

(a) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the District of Columbia portion of the National Capital Interstate AQCR.

(c) No person shall transfer gasoline from any delivery vessel into any stationary storage container with a capacity greater than 250 gallons unless the displaced vapors from the storage container are processed by a system that prevents release to the atmosphere of no less than 90 percent by weight of organic compounds in said vapors displaced from the stationary container location.

(1) The vapor recovery portion of the system shall include one or more of the following:

(i) A vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline can be transferred into the container.

(ii) Refrigeration-condensation system or equivalent designed to recover no less than 90 percent by weight of the organic compounds in the displaced vapor.

(2) If a "vapor-tight vapor return" system is used to meet the requirements of this section, the system shall be so constructed as to be readily adapted to retrofit with an adsorption system, refrigeration-condensation system, or equivalent vapor removal system, and so constructed as to anticipate compliance with § 52.488.

(3) The vapor-laden delivery vessel shall be subject to the following conditions:

(i) The delivery vessel must be so designed and maintained as to be vapor-tight at all times.

(ii) The vapor-laden delivery vessel may be refilled only at facilities equipped with a vapor recovery system or the equivalent, which can recover at least 90 percent by weight of the organic compounds in the vapors displaced from the delivery vessel during refilling.

(iii) Gasoline storage compartments of one thousand gallons or less in gasoline delivery vehicles presently in use on the promulgation date of this regulation will not be required to be retrofitted with a vapor return system until January 1, 1977.

(d) The provisions of paragraph (c) of this section shall not apply to the following:

(1) Stationary containers having a capacity less than 550 gallons used exclusively for the fueling of implements of husbandry.

(2) Any container having a capacity less than 2,000 gallons installed prior to promulgation of this section.

(3) Transfers made to storage tanks equipped with floating roofs or their equivalent.

(e) Every owner or operator of a stationary storage container or delivery vessel subject to this section shall comply with the following compliance schedule:

(1) April 1, 1974—Submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with the provisions of paragraph (c) of this section.

(2) May 1, 1974—Negotiate and sign all necessary contracts for emission control systems, or issue orders for the purchase of component parts to accomplish emission control.

(3) January 1, 1975—Initiate on-site construction or installation of emission control equipment.

(4) February 1, 1976—Complete on-site construction or installation of emission control equipment.

(5) March 1, 1976—Assure final compliance with the provisions of paragraph (c) of this section.

(6) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(f) Paragraph (e) of this section shall not apply:

(1) To a source which is presently in compliance with the provisions of paragraph (c) of this section and which has certified such compliance to the Administrator by January 31, 1974. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator, by January 31, 1974, a proposed alternative schedule. No such schedule may provide for compliance after March 1, 1976. Any such schedule shall provide for certification to the Administrator, within 5 days after the deadline for each increment therein, as to whether or not that increment has been met. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(g) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application for the compliance schedule in paragraph (e) of this section fails to satisfy the requirements of § 51.15 (b) and (c).

(h) Any gasoline dispensing facility subject to this section which installs a storage tank after the effective date of this section shall comply with the requirements of paragraph (c) of this section by March 1, 1976, and prior to that date shall comply with paragraph (e) of this section as far as possible. Any facility subject to this section which installs a storage tank after March 1, 1976, shall comply with the requirements of paragraph (c) of this section at the time of installation.

§ 52.488 Control of evaporative losses from the filling of vehicular tanks.

(a) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the District of Columbia portion of the National Capital Interstate AQCR.

(c) A person shall not transfer gasoline to an automotive fuel tank from a gasoline dispensing system unless the transfer is made through a fill nozzle designed to:

(1) Prevent discharge of hydrocarbon vapors to the atmosphere from either the vehicle filler neck or dispensing nozzle;

(2) Direct vapor displaced from the automotive fuel tank to a system wherein at least 90 percent by weight of the organic compounds in displaced vapors are recovered; and

(3) Prevent automotive fuel tank overfills or spillage on fill nozzle disconnect.

(d) The system referred to in paragraph (c) of this section may consist of vapor-tight return line from the fill nozzle-filler neck interface to the dispensing tank or to an adsorption, absorption, incineration, refrigeration-condensation system or its equivalent.

(e) Components of the systems required by § 52.487 may be used for compliance with paragraph (c) of this section.

(f) If it is demonstrated to the satisfaction of the Administrator that it is impractical to comply with the provisions of paragraph (c) of this section as a result of vehicle fill neck configuration, location, or other design features of a class of vehicles, the provisions of this section shall not apply to such vehicles. However, in no case shall such configuration exempt any gasoline dispensing facility from installing and using in the most effective manner a system required by paragraph (c) of this section.

(g) Every owner or operator of a gasoline dispensing system subject to this section shall comply with the following compliance schedule.

(1) February 1, 1974—Submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with the provisions of paragraph (c) of this section.

(2) June 1, 1974—Negotiate and sign all necessary contracts for emission control systems, or issue orders for the purchase of component parts to accomplish emission control.

(3) January 1, 1975—Initiate on-site construction or installation of emission control equipment.

(4) May 1, 1977—Complete on-site construction or installation of emission control equipment or process modification.

(5) May 31, 1977—Assure final compliance with the provisions of paragraph (c) of this section.

(6) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each

increment of progress, whether or not the required increment of progress has been met.

(h) Paragraph (g) of this section shall not apply:

(1) To a source which is presently in compliance with the provisions of paragraph (c) of this section and which has certified such compliance to the Administrator by January 31, 1974. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator, by January 31, 1974, a proposed alternative schedule. No such schedule may provide for compliance after May 31, 1977. Any such schedule shall provide for certification to the Administrator, within 5 days after the deadline for each increment therein, as to whether or not that increment has been met. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(i) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (g) of this section fails to satisfy the requirements of § 51.15(b) and (c) of this chapter.

(j) Any gasoline dispensing facility subject to this section which installs a gasoline dispensing system after the effective date of this section shall comply with the requirements of paragraph (c) of this section by May 31, 1977, and prior to that date shall comply with paragraph (g) of this section as far as possible. Any facility subject to this section which installs a gasoline dispensing system after May 31, 1977, shall comply with the requirements of paragraph (c) of this section at the time of installation.

§ 52.489 Control of dry cleaning solvent evaporation.

(a) Definitions:

(1) "Dry cleaning operation" means that process by which an organic solvent is used in the commercial cleaning of garments and other fabric materials.

(2) "Organic solvents" means organic materials, including diluents and thinners which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents.

(3) "Photochemically reactive solvent" means any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, as applied to the total volume of solvent.

(i) A combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cycloolefinic type of unsaturation: 5 percent;

(ii) A combination of aromatic compounds with 8 or more carbon atoms to the molecule except ethylbenyenl [sic]: 8 percent;

(iii) A combination of ethylbenyene [sic] or ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent.

(b) This section is applicable to the District of Columbia portion of the National Capital Interstate Region.

(c) No person shall operate a dry cleaning operation using other perchloroethylene, 1,1,1-trichloroethane, or saturated halogenated hydrocarbons unless the uncontrolled organic emissions from such operation are reduced at least 85 percent; provided, that dry cleaning operations emitting less than 8 pounds per hour and less than 40 pounds per day of uncontrolled organic materials are exempt from the requirement of this section.

(d) If incineration is used as a control technique, 90 percent or more of the carbon in the organic emissions being incinerated must be oxidized to carbon dioxide.

(e) Any owner or operator of a source subject to this section shall achieve compliance with the requirements of paragraph (c) of this section by discontinuing the use of photochemically reactive solvents no later than January 31, 1974, or by controlling emissions as required by paragraphs (c) and (d) of this section no later than May 31, 1975.

§ 52.490 Inspection and maintenance program.

(a) Definition:

(1) "Inspection and maintenance program" means a program for reducing emissions from in-use vehicles through identifying vehicles that need emission control-related maintenance and requiring that such maintenance be performed.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) "Medium-duty vehicle" means a gasoline-powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(4) "Heavy-duty vehicle" means a gasoline-powered motor vehicle rated at 10,000 lb GVW or more.

(5) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with the meanings so defined.

(b) This section is applicable within the District of Columbia portion of the National Capital Interstate AQCR.

(c) In connection with the light duty vehicle inspection and maintenance program for the District of Columbia approved by the Administrator pursuant to § 52.-472 the District shall establish an inspection and maintenance program applicable to all medium duty and heavy duty vehicles registered in the District that operate on public streets or highways over which it has ownership or control. The District may exempt any class or category of vehicles that the District finds is rarely used on public streets or highways (such as classic or antique vehicles). No later than April 1, 1974, the District shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Provisions for inspection of all medium-duty and heavy-duty motor vehicles at periodic intervals not more than 1 year apart by means of a loaded emission test.

(2) Provisions for inspection failure criteria consistent with the failure of 30 percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive within two weeks the maintenance necessary to achieve compliance with the inspection standards. These shall include sanctions against individual owners and repair facilities, retest of failed vehicles following maintenance, use of a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts, and knowledgeable operators to perform the tasks satisfactorily, and use of such other measures as may be necessary or appropriate.

(4) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This enforcement program might include spot checks of idle adjustment and/or a suitable type of physical tagging. This program shall include penalties for violation.

(5) Provisions for beginning the first inspection cycle by January 1, 1975, completing it by January 1, 1976.

(6) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) After January 1, 1976, the District shall not register or allow to operate on public streets or highways any medium-duty or heavy-duty vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) After January 1, 1976, no owner of a medium-duty or heavy-duty vehicle shall operate or allow the operation of such vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragrah (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(f) The District shall submit, no later than February 1, 1974, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section.

§ 52.491 Bicycle lanes and bicycle storage facilities.

(a) Definitions:

(1) "Bicycle" means a two-wheel, nonmotor powered vehicle.

(2) "Bicycle lane" means a route for the exclusive use of bicycles, either constructed specifically for that purpose or converted from an existing lane.

(3) "Bicycle parking facility" means any storage facility for bicycles, which allows bicycles to be locked securely.

(4) "Parking space" means the area allocated by a parking facility for the temporary storage of one automobile.

(5) "Parking facility" means a lot, garage, building, or portion thereof, in or on which motor vehicles are temporarily parked.

(b) This section shall be applicable in the District of Columbia portion of the National Capital Interstate Air Quality Control Region.

(c) On or before July 1, 1976, the District of Columbia shall establish a network of bicycle lanes linking residential areas with employment, educational, and commercial centers in accordance with the following requirements:

(1) The network shall contain no less than 60 miles of bicycle lanes in addition to any in existence as of November 20, 1973.

(2) Each bicycle lane shall at a minimum:

(i) Be clearly marked by signs indicating that the lane is for the exclusive use of bicycles (and pedestrians, if necessary);

(ii) Be separated from motor vehicle traffic by appropriate devices, such as physical barriers, pylons, or painted lines;

(iii) Be regularly maintained and repaired;

(iv) Be of a hard, smooth surface suitable for bicycles;

(v) Be at least 5 feet wide for one-way traffic, or 8 feet wide for two-way traffic;

(vi) If in a street used by motor vehicles, be a minimum of 8 feet wide whether one-way or two-way; and

(vii) Be adequately lighted.

(3) Off-street bicycle lanes which are not reasonably suited for commuting to and from employment, educational, and commercial centers shall not be considered a part of this network.

(4) On or before October 1, 1974, the District of Columbia shall establish 25 percent of the total mileage of the bicycle lane network; on or before June 1, 1975, 50 percent of the total mileage shall be established; on or before July 1, 1976, 100 percent of the total mileage shall be established.

(d) On or before June 1, 1974, the District of Columbia shall submit to the Administrator a comprehensive study of a bicycle lane and bicycle path network. The study shall include, but not be limited to the following:

(1) A bicycle user and potential user survey, which shall at a minimum determine:

(i) For present bicycle riders, the origin, destination, frequency, travel time, and distance of bicycle trips;

(ii) In high density employment areas, the present modes of transportation of employees and the potential modes of transportation, including the number of employees who would convert to the bicycle mode from other modes upon completion of the bicycle lane network described in paragraph (c) of this section.

(2) A determination of the feasibility and location of on-street bicycle lanes.

(3) A determination of the feasibility and location of off-street lanes.

(4) A determination of the special problems related to feeder lanes to bridges, on-bridge lanes, feeder lanes to METRO and railroad stations, and feeder lanes to fringe parking areas, and the means necessary to include such lanes in the bicycle lane network described in paragraph (c) of this section.

(5) A determination of the feasibility and location of various methods of safe bicycle parking.

(6) The study shall make provision for the receipt of public comments on any matter within the scope of the study, including the location of the bicycle lane network described in paragraph (c) of this section.

(e) By June 1, 1974, in addition to the comprehensive study required pursuant to paragraph (d) of this section, the District of Columbia shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish this network pursuant to paragraphs (c) and (h) of this section. The compliance schedule shall identify in detail the names of streets that will provide bicycle lanes and the location of any lanes to be constructed especially for bicycle use. It shall also include a statement indicating the source, amount, and adequacy of funds to be used in implementing this section, and the text of any needed statutory proposals and needed regulations which will be proposed for adoption.

(f) On or before October 1, 1974, the District of Columbia shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.

(g) On or before May 1, 1974, the District of Columbia shall establish a pilot bicycle lane from Key Bridge via Pennsylvania Avenue past the White House to the U.S. Capitol and from the Capitol along Pennsylvania Avenue to Alabama Avenue SE.

(h) On or before June 1, 1975, the District of Columbia shall require all owners and operators of parking facilities containing more than 50 parking spaces (including both free and commercial facilities) within the area specified in paragraph (b) of this section to provide spaces for the storage of bicycles in the following ratio: one automobile-sized parking space (with a bicycle parking facility) for the storage of bicycles for every 75 parking spaces for the storage of autos. The District shall also require that:

(1) Bicycle parking facilities shall be so located as to be safe from motor vehicle traffic and secure from theft. They shall be properly repaired and maintained.

(2) The METRO Subway System shall provide a sufficient number of safe and secure bicycle parking facilities at each station to meet the needs of its riders.

(3) All parking facilities owned, operated, or leased by the Federal Government shall be subject to this paragraph.

(4) Any owner or operator of a parking facility which charges a fee for the storage of motor vehicles shall store bicycles at a price per unit per hour which is no greater in relation to the cost of storing them than is the price of parking for a motor vehicle in relation to the cost of storing it. Unless the owner or operator makes an affirmative showing to the District of Columbia of different facts, and agrees to charge in conformity with that showing, the ratio in costs and prices shall be determined by the maximum number of bicycles that can be stored in a single standard-sized automobile parking space.

§ 52.492 Medium duty air/fuel control retrofit.

(a) Definitions:

(1) "Air/fuel Control Retrofit" means a system or device (such as modification to the engine's carburetor or positive crankcase ventilation system) that results in engine operation at an increased air/fuel ratio so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide from 1973 and earlier medium-duty vehicles of at least 15 and 30 percent, respectively.

(2) "Medium-duty vehicle" means a gasoline powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(3) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable within the District of Columbia portion of the National Capital Interstate AQCR.

(c) The District of Columbia shall establish a retrofit program to ensure that on or before May 31, 1976, all

medium-duty vehicles of model years prior to 1973 which are not required to be retrofitted with an oxidizing catalyst or other approved device pursuant to § 52.495 which are registered in the area specified in paragraph (b) of this section are equipped with an appropriate air/fuel control device or other device as approved by the Administrator that will reduce exhaust emissions of hydrocarbons and carbon monoxide to the same extent as an air/fuel control device. No later than February 1, 1974, the District of Columbia shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section. The compliance schedule shall include a date by which the District shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(d) No later than April 1, 1974, the District shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d)(3) of this section are enforced.

(3) Provisions for beginning the installation of the retrofit devices by August 1, 1975, and completing the installation of the devices on all vehicles subject to this section no later than May 31, 1976.

(4) A provision that no later than May 31, 1976, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.490 unless it has been first equipped with an approved air/fuel control device, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and abil-

ity to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emission testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(e) After May 31, 1976, the District shall not register or allow to operate on its streets or highways any vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After May 31, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implemented by this section.

(g) The District may exempt any class or category of vehicles from this section which the District finds is rarely used on public streets and highways (such as classic or antique vehicles) or for which the District demonstrates to the Administrator that air/fuel control devices or other devices approved pursuant to this section are not commercially available.

§ 52.494 Heavy duty air/fuel control retrofit.

(a) Definitions:

(1) "Air/fuel Control Retrofit" means a system or device (such as modification to the engine's carburetor or positive crankcase ventilation system) that results in engine operation at an increased air/fuel ratio so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide from heavy-duty vehicles of at least 30 and 40 percent, respectively.

(2) "Heavy-duty vehicle" means a gasoline-powered motor vehicle rated at 10,000 lb gross vehicle weight (GVW) or more.

(3) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable within the District of Columbia portion of the National Capital Interstate AQCR.

(c) The District of Columbia shall establish a retrofit program to ensure that on or before May 31, 1977, all heavy-duty vehicles registered in the area specified in paragraph (b) of this section are equipped with an appropriate air/fuel control device, or other device as approved by the Administrator that will reduce exhaust emissions of hydrocarbons and carbon monoxide to the same extent as an air/fuel control device. No later than April 1, 1974, the District of Columbia shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section. The compliance schedule shall include a date by which the District shall evaluate and approve devices for use in this program. Such date shall be no later than January 1, 1975.

(d) No later than September 1, 1974, the District shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d) (3) of this section are enforced.

(3) Provisions for beginning the installation of the retrofit devices by January 1, 1976, and completing the installation of the devices on all vehicles subject to this section no later than May 31, 1977.

(4) A provision that starting no later than May 31, 1977, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.490 unless it has been first equipped with an approved air/fuel control device, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations

shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(e) After May 31, 1977, the District shall not register or allow to operate on its streets or highways any vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After May 31, 1977, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) The District may exempt any class or category of vehicles from this section which the District finds is rarely used on public streets and highways (such as classic or antique vehicles) or for which the District demonstrates to the Administrator that air/fuel control or other devices approved pursuant to this section are not commercially available.

§ 52.495 Oxidizing catalyst retrofit.

(a) Definitions:

(1) "Oxidizing catalyst" means a device that uses a catalyst installed in the exhaust system of a vehicle (and if necessary includes an air pump) so as to achieve a reduction in exhaust emissions of hydrocarbon and carbon monoxide of at least 50 and 50 percent, respectively, from light-duty vehicles of 1971 through 1975 model years, and of at least 50 and 50 percent, respectively, from medium duty vehicles of 1971 through 1975 model years.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) "Medium-duty vehicle" means a gasoline-powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(4) "Fleet vehicle" means any of 5 or more light-duty vehicles operated by the same person(s), business, or governmental entity and used principally in connection with the same or related occupations or uses. This definition shall also include any taxicab (or other light-duty vehicle-for-hire) owned by any individual or business.

(5) All other terms used in this section that are defined in Part 51, Appendix N, are used herein with meanings so defined.

(b) This section is applicable within the District of Columbia portion of the National Capital Interstate AQCR.

(c) The District of Columbia shall establish a retrofit program to ensure that on or before May 31, 1977, all light-duty fleet vehicles of model years 1971 through 1975 and all medium-duty vehicles of model years 1971 through 1975 which are registered in the area specified in paragraph (b) of this section and are able to operate on 91RON gasoline are equipped with an appropriate oxidizing catalyst retrofit device or other device as approved by the Administrator, that will reduce exhaust emissions of hydrocarbon and carbon monoxide to the same extent as an oxidizing catalyst retrofit device. No later than April 1, 1974, the District of Columbia shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section. The compliance schedule shall include a date by which the District shall evaluate and approve devices for use in this program. Such date shall be no later than January 1, 1975.

(d) No later than September 1, 1974, the District shall submit legally adopted regulations to the Administrator establishing such a program.

The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d)(3) of this section are enforced.

(3) Provisions for beginning the installation of the retrofit devices by January 1, 1976, and completing the installation of the devices on all vehicles subject to this section no later than May 31, 1977.

(4) A provision that starting no later than May 31, 1977, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by §§ 52.472 and 52.490 unless it has been first equipped with an approved oxidizing catalyst device, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(e) After May 31, 1977, the District shall not register or allow to operate on its streets or highways any vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After May 31, 1977, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) Any vehicle which is manufactured equipped with an oxidizing catalyst, or which is certified to meet the

original 1975 light duty vehicle emissions standards set forth in section 202(b)(1)(a) of the Clean Air Act of 1970 (without regard to any suspension of such standards), shall be exempt from the requirements of this section.

§ 52.496 Vacuum spark advance disconnect retrofit.

(a) Definitions:

(1) "Vacuum spark advance disconnect retrofit" means a device or system installed on a motor vehicle that prevents the ignition vacuum advance from operating either when the vehicle's transmission is in the lower gears, or when the vehicle is traveling below a predetermined speed, so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide from 1967 and earlier light-duty vehicles of at least 25 and 9 percent, respectively.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb. gross vehicle weight (GVW) or less.

(3) All other terms used in this section that are defined in Part 51, Appendix N, are used herein with meanings so defined.

(b) This section is applicable within the District of Columbia portion of the National Capital Interstate AQCR.

(c) The District of Columbia shall establish a retrofit program to ensure that on or before January 1, 1976, all light-duty vehicles of model years prior to 1968 registered in the area specified in paragraph (b) of this section are equipped with an appropriate vacuum spark advance disconnect retrofit device or other device, as approved by the Administrator, that will reduce exhaust emissions of hydrocarbons and carbon monoxide to the same extent as a vacuum spark advance disconnect retrofit. No later than February 1, 1974, the District shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section. The com-

pliance schedule shall include a date by which the District shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(d) No later than April 1, 1974, the District shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d) (3) of this section are enforced.

(3) Provisions for beginning the installation of the retrofit devices by January 1, 1975, and completing the installation of the devices on all vehicles subject to this section no later than January 1, 1976.

(4) A provision that starting no later than January 1, 1976, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.472 unless it has been first equipped with an approved vacuum spark advance disconnect retrofit device, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation, or some other positive assurance that the device is installed and operating correctly.

(e) After January 1, 1976, the District shall not register or allow to operate on its streets or highways any light-duty vehicle that does not comply with the applic-

able standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After January 1, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) The District may exempt any class or category of vehicles from this section which the District finds is rarely used on public streets and highways (such as classic or antique vehicles) or for which the State demonstrates to the Administrator that vacuum spark advance disconnect devices or other devices approved pursuant to this section are not commercially available.

Subpart V of 40 CFR Part 52 is amended as follows:

Subpart V—Maryland

1. In § 52.1070 paragraph (c) is revised to read as follows:

§ 52.1070 Identification of plans.

* * * * *

(c) Supplemental information was submitted on:

(1) February 25, March 3, March 7, April 4, April 28, and May 8, 1972, by the Maryland Bureau of Air Quality Control; and

(2) April 16, May 5, June 15, June 22, June 28, and July 9, 1973.

2. Section 52.1072 is amended by revising paragraph (b) to read as follows:

§ 52.1072 Extensions.

* * * * *

(b) The Administrator hereby extends for two years the attainment dates for the national standards for carbon monoxide and photochemical oxidants in the Maryland portion of the National Capital Interstate Region.

3. Section 52.1073 is revised to read as follows:

§ 52.1073 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Maryland's plans for the attainment and maintenance of the national standards.

(b) With respect to the transportation control strategies submitted on April 16, May 5, June 15, June 22, June 28, and July 9, 1973, the Administrator approves the measures for the National Capital region for car pool locator, express bus lanes, increased bus fleet and service, elimination of free on-street commuter parking, elimination of free employee parking, parking surcharge, dry cleaning solvent use, and gasoline vapor recovery with the exceptions set forth in §§ 52.1074, 52,1077, 52.1080, 52.1081, 52.1082, and 52.1084.

(c) With respect to the transportation control strategies submitted on April 16, May 5, June 15, June 22, June 28, and July 9, 1973, the Administrator disapproves the measures for inspection programs, heavy duty vehicle inspection and retrofit, for the reasons set forth in § 52.1074. Rectifying provisions to require these programs to be implemented are promulgated in §§ 52.1089, 52.1091, and 52.1092.

4. Section 52.1074 is revised to read as follows:

§ 52.1074 Legal authority.

(a) The requirements of § 51.11(b) of this chapter are not met with respect to the vehicle inspection program and heavy duty vehicle inspection and retrofit because definite commitment to obtain legal authority was not made.

(b) The requirements of § 51.11(f) of this chapter are not fully met for the Maryland portion of the National Capital region because it is not clearly demonstrated that all local agencies have requisite legal authority, or that the State retains responsibility for implementing the transportation control measures.

5. In § 52.1077, paragraph (b) is amended by adding the following sentence at the end of the paragraph and paragraph (c) is added as follows:

§ 52.1077 Source surveillance.

* * * * *

(b) * * * Rectifying provisions are promulgated in this section.

(c) *Monitoring Transportation Sources.* (1) This section is applicable to the State of Maryland.

(2) In order to assure the effectiveness of the inspection and maintenance program and the retrofit devices required under §§ 52.1089, 52.1091, 52.1092, 52.1093, and 52.1094. State shall monitor the actual per-vehicle emissions reductions occurring as a result of such measures. All data obtained from such monitoring shall be included in the quarterly report submitted to the Administrator by the State in accordance with § 51.7 of this chapter. The first quarterly report shall cover the period January 1 to March 31, 1976.

(3) In order to assure the effective implementation of the car pool locator, express bus lanes, increased bus fleet and service, elimination of free on-street commuter parking, elimination of free employee parking, and the parking surcharge approved in § 52.1073, the State shall monitor vehicle miles travelled and average vehicle speeds for each area in which such sections are in effect and during such time periods as may be appropriate to evaluate the effectiveness of such a program. All data obtained from such monitoring shall be included in the quarterly report submitted to the Administrator by the State of Maryland in accordance with § 51.7 of this chapter. The first quarterly report shall cover the period from July 1 to September 30, 1974. The vehicle miles travelled and vehicle speed data shall be collected on a monthly basis and submitted in a format similar to Table 1.

TABLE 1

Time period Affected area		
Roadway type	VMT or average vehicle speed	
	Vehicle type (1)	Vehicle type (2)[1]
Freeway		
Arterial		
Collector		
Local		

[1] Continue with other vehicle types as appropriate.

(4) No later than March 1, 1974, the State shall be submitted [sic] to the Administrator a compliance schedule to implement this section. The program description shall include the following:

(i) The agency or agencies responsible for conducting overseeing, and maintaining the monitoring program.

(ii) The administrative procedures to be used.

(iii) A description of the methods to be used to collect the emission data, VMT data, and vehicle speed data; a description of the geographical area to which the data apply; identification of the location at which the data will be collected; and the time periods during which the data will be collected.

§ 52.1078 [Amended]

6. In § 52.1078, the attainment date table is revised by replacing the date "May 31, 1975," for attainment of the national standards for carbon monoxide and photochemical oxidants in the Maryland portion of the National Capital Interstate Region with the date "May 31, 1977," and by deleting footnote "e".

§ 52.1079 [Reserved]

7. Section 52.1079 is revoked and reserved.

8. In § 52.1080, paragraphs (c) through (h) are added to read as follows:

§ 52.1080 Compliance schedule.

* * * * *

(c) With respect to the transportation control strategies submitted by the State, the requirements of § 51.15 of this chapter are not fully met for the measures for parking surcharge, elimination of free on-street commuter parking, elimination of free employee parking, increased bus fleet and service, and exclusive bus lanes. Provisions to implement the requirements of § 51.15 of this chapter are promulgated in this section.

(d) With respect to the parking surcharge measure approved in § 52.1073:

(1) The State of Maryland shall no later than June 30, 1974, submit to the Administrator for his approval a precise description of areas within the Maryland portion of the National Capital Interstate AQCR which are at the time adequately served by mass transit, and those areas which in the judgment of the State will be adequately served by mass transit by June 30, 1975. The documentation and policy assumptions used to select these areas shall be included with this submission.

(2) The State of Maryland shall by June 30, 1975, and each succeeding year submit to the Administrator for his approval a revised list of those areas which are adequately served by mass transit. Additional areas must be included as mass transit service is increased, unless the State can affirmatively demonstrate that no additional areas can be included.

(3) Each political subdivision of the State of Maryland which has jurisdiction over any area (or portion thereof) designated as adequately served by mass transit shall, not later than October 1, 1974, submit to the Administrator legally adopted regulations instituting the parking surcharge on all long-term (6 hours) parking in all commercial parking facilities (except to the extent they are used for residential parking) and all facilities subject to §§ 52.1080(f) and 52.1085 in those areas adequately served by mass transit within the control of such political subdivision. The parking surcharge shall be im-

plemented and collected according to the following schedule:

June 30, 1975-Dec. 31, 1975	$0.50
January 1, 1976-June 30, 1976	1.00
July 1, 1976-Dec. 31, 1976	1.50
January 1, 1977	2.00

All monies collected under this program shall be turned over to the appropriate political subdivision. All proceeds from this program shall be used for the expansion and operation of mass transit, except for a reasonable amount for the costs of administration and collection of the surcharge. Any handicapped person who is unable to use mass transit shall not be subject to the surcharge. The parking surcharge shall not apply to any parking begun between the hours of 6 p.m. and 2 a.m.

(c) With respect to the measure for elimination of free on-street commuter parking approved in § 52.1073:

(1) Each political subdivision of the State of Maryland within the National Capital Interstate AQCR shall, no later than June 30, 1974, submit to the Administrator for his approval a compliance schedule, including legally adopted regulations, enforcement procedures, and a description of resources available. The compliance schedule shall provide:

(i) For implementing the on-street parking ban in all areas within which a surcharge will be required by paragraph (d) of this section. This program shall prohibit all parking for more than two hours by non-residents of the area subject to the ban during the hours from 7 a.m. to 7 p.m. Monday through Friday (excepting holidays) on any street within such areas. The program shall also provide for a sticker system, under which residents of such area may also be exempted from the ban, and for a system (whether by notification to the enforcement authorities, or otherwise) for also exempting bona fide visitors to residents of such areas from the ban.

(ii) The precise resources that will be devoted to enforcing this measure, the method of enforcement to be used (for example, chalking tires), and the penalties for violation. The compliance schedule shall at a minimum provide that violators shall be subject to a $10.00 fine.

(f) With respect to the measure for elimination of free employee parking approved in § 52.1073:

(1) For purposes of this paragraph "Commercial Parking Rate" shall mean the average daily rate charged by the three operators of parking facilities containing 25 or more commercial parking spaces that are closest in location to any employee parking space affected by this paragraph.

(2) The State of Maryland shall, no later than June 30, 1974, submit to the Administrator for his approval a precise description of areas within the State which are at that time adequately served by mass transit, and those areas which in the judgment of the State will be adequately served by mass transit by June 30, 1975. The documentation and policy assumptions used to select these areas shall be included with this submission.

(3) The State of Maryland shall by June 30, 1975, and each succeeding year, submit to the Administrator for his approval a revised list of those areas which are adequately served by mass transit. Additional areas must be included as mass transit service is increased, unless the State can affirmatively demonstrate that no additional areas can be included.

(4) Each political subdivision of the State of Maryland which has jurisdiction over any area designated as adequately served by mass transit shall, no later than October 1, 1974, submit to the Administrator legally adopted regulations instituting commercial parking rates by June 30, 1975, on all employers, public (excluding federal government) or private, with 25 or more employee spaces located in those areas adequately served by mass transit within the Maryland portion of the National Capital Interstate AQCR. Any handicapped person who is unable to use mass transit shall not be subject

to the commercial parking rate. The commercial parking rate shall not apply to employee parking begun between the hours of 6 p.m. and 2 a.m.

(g) With respect to the measure for increased bus fleet and service approved in § 52.1073: The State of Maryland shall no later than January 31, 1974, submit a compliance schedule to put the program into effect. The compliance schedule shall, at a minimum, provide that the State of Maryland shall, on or before March 1, 1974, submit to the Administrator a statement, signed both by a representative of the State of Maryland, and by a representative of the Washington Metropolitan Area Transit Authority (WMATA) indicating that, in the judgment of both of them. financial commitments have been made by the State of Maryland or by its local governments for the purchase of buses. This statement, when taken in conjunction with the commitments made by the District of Columbia and the Commonwealth of Virginia, must be sufficient to enable WMATA to purchase in the fiscal year beginning the next July 1 the number of buses indicated below:

Fiscal Year 1975—175 buses
Fiscal Year 1976—150 buses
Fiscal Year 1977—150 buses

The statement shall also indicate that WMATA has in fact committed to purchase that number of buses.

(h) With respect to the express bus lane measure approved in § 52.1073:

(1) The State of Maryland shall no later than January 1, 1975, establish exclusive bus lanes in the following corridors:

(i) U.S. Route 50 from New Carrollton to the Maryland-District of Columbia boundary.

(ii) Pennsylvania Avenue and Maryland Route 4 from Andrews Air Force Base to the Maryland-District of Columbia boundary.

(iii) U.S. Route 240 from Old Georgetown Road to the Maryland-District of Columbia boundary.

(iv) New Hampshire Avenue from U.S. Route 29 to the Maryland-District of Columbia boundary.

Such lanes shall be inbound during the morning peak and outbound during the evening peak periods.

(2) The State of Maryland shall submit to the Administrator, no later than March 1, 1974, a schedule showing the steps which it will take to establish exclusive bus lanes in those corridors enumerated in paragraph (h) (1) of this section. Each schedule shall be subject to approval by the Administrator and shall include as a minimum the following:

(i) Identification of streets or highways that shall have portions designated for exclusive bus lanes.

(ii) The date by which each street or highway shall be designated.

(3) Exclusive bus lanes must be prominently indicated by distinctively painted lines, pylons, overhead signs, or physical barriers.

(4) Application for substitution of a corridor for any of those listed in paragraph (h) (1) of this section shall be made by the State of Maryland for the Administrator's approval no later than March 1, 1974.

§ 52.1080 [Corrected]

9. Section 52.1080, "Control strategy: Carbon monoxide and photochemical oxidants (hydrocarbons)," as promulgated on June 22, 1973, (38 FR 16566), is corrected by renumbering it as § 52.1081, and is revised to read as follows:

§ 52.1081 Control strategy: Carbon monoxide and photochemical oxidants (hydrocarbons).

(a) With respect to the transportation control plan for the National Capital region submitted by the State, the requirements of § 51.14(a) (1) and (2) of this Chapter are not met because there are no proposed regulations, nor an adequate description of enforcement and administrative procedures for the strategies for express bus lanes, increased bus fleet and service, elimination of

free on-street commuter parking, and elimination of free parking by employers.

(b) The requirements of § 51.14(c) of this chapter are not met with respect to the transportation control plans for the National Capital region because the strategies were not defined well enough to insure the claimed and required emission reductions. Inadequate technical justification was provided for the claimed reductions in aircraft emissions and no strategies were provided for these reductions.

10. Section 52.1082 is added to read as follows:

§ 52.1082 Rules and regulations.

(a) The requirements of § 51.22 of this chapter are not met for the National Capital Interstate Region because regulations necessary to implement proposed stationary control measures for gas handling and dry cleaning losses have not been adopted. Substitute regulations are promulgated in §§ 52.1086, 52.1087, and 52.1088.

11. Section 52.1084 is revised to read as follows:

§ 52.1084 Intergovernmental cooperation.

(a) The requirements of § 51.21 of this chapter are not met because local agencies and their responsibilities in carrying out transportation control measures are not adequately identified.

12. Sections 52.1085 through 52.1094 are added to read as follows:

§ 52.1085 Federal parking facilities.

(a) Definitions. For the purposes of this section:

(1) "Administrative Officer" means the Administrator of General Services, the Marshal of the Supreme Court of the United States, the Architect of the Capitol, and any other representative of a Federal Government entity designated as such for the purposes of this section by the Administrator.

(2) "Commercial value" means a value which approximates commercial charges for space and services for like

facilities in the immediate vicinity of a Federal facility. In the absence of commercial facilities, commercial value should be established using the fair market value of a Federal facility and the cost of services being provided as a basis.

(3) "Designated area" means an area defined by § 52.1080(d)(1).

(4) "Federal Government entity" means a Federal department, agency, bureau, board, office, commission, district, or an instrumentality of the executive legislative, and judicial branches of the Federal Government. Foreign embassies are not subject to this regulation.

(5) "Parking facility" (also called "facility") means any lot, garage, building or structure, or any combination or portion thereof, in or on which motor vehicles are temporarily parked.

(6) "Residential parking space" means any parking space used primarily for the parking of vehicles of persons residing within one-half mile of the space.

(b) This section shall be applicable in the State of Maryland portion of the National Capital Interstate Air Quality Control Region.

(c) Commencing July 1, 1975, rates based upon the commercial value shall be charged employees for parking a motor vehicle in any facility which is owned, operated, leased or otherwise controlled by any Federal Government entity and which is located in a designated area; provided, however, that such commercial value shall not apply (1) to parking begun between the hours of 6 p.m. and 2 a.m., (2) to residential parking spaces contained in or on the facility, (3) to vehicles owned or leased by the Federal Government, and (4) to any vehicle exempted under paragraph (d)(2) of this section.

(d)(1) Each Administrative Officer shall adopt a plan which shall require each Federal Government entity under his authority to which this section applies to implement paragraph (c) of this section.

(2) The plan may provide for exemption from the requirements of paragraph (c) of this section for space

assigned to handicapped persons who are physically unable to use mass transit.

(3) The Administrator of the Environmental Protection Agency will promulgate such a plan by May 1, 1974, for any parking facility of any Federal Government entity to which this section applies which is not under the authority of an Administrative Officer. Any such Federal Government entity may apply to the Administrator before January 4, 1974, for designation of an "Administrative Officer" and permission to submit its own plan.

(4) Each Administrative Officer shall submit to EPA, no later than July 1, 1974, an outline of the plan required by this paragraph, and the effective date of the plan, which date shall be no later than July 1, 1975. The plan required by this paragraph covering all subject facilities of government entities which are part of the executive branch of the Federal Government shall be coordinated with the Administrator of General Services.

§ 52.1086 Gasoline transfer vapor control.

(a) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the Maryland portion of the National Capital Interstate AQCR.

(c) No person shall transfer gasoline from any delivery vessel into any stationary storage container with a capacity greater than 250 gallons unless the displaced vapors from the storage container are processed by a system that prevents release to the atmosphere of no less than 90 percent by weight or organic compounds in said vapors displaced from the stationary container location.

(1) The vapor recovery portion of the system shall include one or more of the following:

(i) A vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline can be transferred into the container.

(ii) Refrigeration-condensation system or equivalent designed to recover no less than 90 percent by weight of the organic compounds in the displaced vapor.

(2) If a "vapor-tight vapor return" system is used to meet the requirements of this section, the system shall be so constructed as to be readily adapted to retrofit with an adsorption system, refrigeration-condensation system, or equivalent vapor removal system, and so constructed as to anticipate compliance with § 52.1087 of this chapter.

(3) The vapor-laden delivery vessel shall be subject to the following conditions:

(i) The delivery vessel must be so designed and maintained as to be vapor-tight at all times.

(ii) The vapor-laden delivery vessel may be refilled only at facilities equipped with a vapor recovery system or the equivalent, which can recover at least 90 percent by weight of the organic compounds in the vapors displaced from the delivery vessel during refilling.

(iii) Gasoline storage compartments of 1,000 gallons or less in gasoline delivery vehicles presently in use on the promulgation date of this regulation will not be required to be retrofitted with a vapor return system until January 1, 1977.

(d) The provisions of paragraph (c) of this section shall not apply to the following:

(1) Stationary containers having a capacity less than 550 gallons used exclusively for the fueling of implements of husbandry.

(2) Any container having a capacity less than 2,000 gallons installed prior to promulgation of this section.

(3) Transfers made to storage tanks equipped with floating roofs or their equivalent.

(e) Every owner or operator of a stationary storage container or delivery vessel subject to this section shall comply with the following compliance schedule:

(1) April 1, 1974—Submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with the provisions of paragraph (c) of this section.

(2) May 1, 1974—Negotiate and sign all necessary contracts for emission control systems, or issue orders for the purchase of component parts to accomplish emission control.

(3) January 1, 1975—Initiate on-site construction or installation of emission control equipment.

(4) February 1, 1976—Complete on-site construction or installation of emission control equipment.

(5) March 1, 1976—Assure final compliance with the provisions of paragraph (c) of this section.

(6) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(f) Paragraph (e) of this section shall not apply:

(1) To a source which is presently in compliance with the provisions of paragraph (c) of this section and which has certified such compliance to the Administrator by January 31, 1974. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator, by January 31, 1974, a proposed alternative schedule. No such schedule may provide for compliance after March 1, 1976. Any such schedule shall provide for certification to the Administrator, within 5 days after the deadline for each increment therein, as to whether or not that increment has been met. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(g) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (e) of this section fails to satisfy the requirements of § 51.15(b) and (c) of this chapter.

(h) Any gasoline dispensing facility subject to this section which installs a storage tank after the effective date of this section shall comply with the requirements of paragraph (c) of this section by March 1, 1976, and prior to that date shall comply with paragraph (e) of this section as far as possible. Any facility subject to this section which installs a storage tank after March 1, 1976, shall comply with the requirements of paragraph (c) of this section at the time of installation.

§ 52.1087 Control of evaporative losses from the filling of vehicular tanks.

(a) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the Maryland portion of the National Capital Interstate AQCR.

(c) A person shall not transfer gasoline to an automotive fuel tank from a gasoline dispensing system unless the transfer is made through a fill nozzle designed to:

(1) Prevent discharge of hydrocarbon vapors to the atmosphere from either the vehicle filler neck or dispensing nozzle;

(2) Direct vapor displaced from the automotive fuel tank to a system wherein at least 90 percent by weight of the organic compounds in displaced vapors are recovered; and

(3) Prevent automotive fuel tank overfills or spillage on fill nozzle disconnect.

(d) The system referred to in paragraph (c) of this section may consist of a vapor-tight return line from the fill nozzle-filler neck interface to the dispensing tank or to an adsorption, absorption, incineration, refrigeration-condensation system or its equivalent.

(e) Components of the systems required by § 52.1086 may be used for compliance with paragraph (c) of this section.

(f) If it is demonstrated to the satisfaction of the Administrator that it is impractical to comply with the

provisions of paragraph (c) of this section as a result of vehicle fill neck configuration, location, or other design features of a class of vehicles, the provisions of this section shall not apply to such vehicles. However, in no case shall such configuration exempt any gasoline dispensing facility from installing and using in the most effective manner a system required by paragraph (c) of this section.

(g) Every owner or operator of a gasoline dispensing system subject to this section shall comply with the following compliance schedule.

(1) February 1, 1974—Submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with the provisions of paragraph (c) of this section.

(2) June 1, 1974—Negotiate and sign all necessary contracts for emission control systems, or issue orders for the purchase of component parts to accomplish emission control.

(3) January 1, 1975—Initiate on-site construction or installation of emission control equipment.

(4) May 1, 1977—Complete on-site construction installation of emission control equipment or process modification.

(5) May 31, 1977—Assure final compliance with the provisions of paragraph (c) of this section.

(6) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(h) Paragraph (g) of this section shall not apply:

(1) To a source which is presently in compliance with the provisions of paragraph (c) of this section and which has certified such compliance to the Administrator by January 31, 1974. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator, by January 31, 1974, a proposed alternative schedule. No such schedule may provide for compliance after May 31, 1977. Any such schedule shall provide for certification to the Administrator, within 5 days after the deadline for each increment therein, as to whether or not that increment has been met. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(i) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (g) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

(j) Any gasoline dispensing facility subject to this section which installs a gasoline dispensing system after the effective date of this section shall comply with the requirements of paragraph (c) of this section by May 31, 1977, and prior to that date shall comply with paragraph (g) of this section as far as possible. Any facility subject to this section which installs a gasoline dispensing system after May 31, 1977, shall comply with the requirements of paragraph (c) of this section at the time of installation.

§ 52.1088 Control of dry cleaning solvent evaporation.

(a) Definitions:

(1) "Dry cleaning operation" means that process by which an organic solvent is used in the commercial cleaning of garments and other fabric materials.

(2) "Organic solvents" means organic materials, including diluents and thinners, which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents.

(3) "Photochemically reactive solvent" means any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds

classified below or which exceeds any of the following individual percentage composition limitations, as applied to the total volume of solvent.

(i) A combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cyclo-olefinic type of unsaturation: 5 percent;

(ii) A combination of aromatic compounds with 8 or more carbon atoms to the molecule except ethylbenyenl: 8 percent;

(iii) A combination of ethylbenyene or ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent.

(b) This section is applicable to the Maryland portion of the National Capital Intrastate AQCR.

(c) No person shall operate a dry cleaning operation using other than perchloroethylene, 1,1,1-trichloroethane, or saturated halogenated hydrocarbons unless the uncontrolled organic emissions from such operation are reduced at least 85 percent; provided, that dry cleaning operations emitting less than 8 pounds per hour and less than 40 pounds per day of uncontrolled organic materials are exempt from the requirement of this section.

(d) If incineration is used as a control technique, 90 percent or more of the carbon in the organic emissions being incinerated must be oxidized to carbon dioxide.

(e) Any owner or operator of a source subject to this section shall achieve compliance with the requirements of paragraph (c) of this section by discontinuing the use of photochemically reactive solvents no later than January 31, 1974, or by controlling emissions as required by paragraphs (c) and (d) of this section no later than May 31, 1975.

§ 52.1089 Inspection and maintenance program.

(a) Definitions:

(1) "Inspection and maintenance program" means a program for reducing emissions from in-use vehicles through identifying vehicles that need emission control-related maintenance and requiring that such maintenance be performed.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) "Medium-duty vehicle" means a gasoline-powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(4) "Heavy-duty vehicle" means a gasoline-powered motor vehicle rated at 10,000 GVW or more.

(5) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with the meanings so defined.

(b) This section is applicable within the Maryland portion of the National Capital Interstate AQCR.

(c) The State of Maryland shall establish an inspection and maintenance program applicable to all light-duty, medium-duty, and heavy-duty vehicles registered in the area specified in paragraph (b) of this section that operate on public streets or highways over which it has ownership or control. The State may exempt any class or category of vehicles that the State finds is rarely used on public streets or highways (such as classic or antique vehicles). No later than April 1, 1974, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Provisions for inspection of all light-duty, medium-duty, and heavy-duty motor vehicles at periodic intervals no more than 1 year apart by means of a loaded emission test.

(2) Provisions for inspection failure criteria consistent with the failure of 30 percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive within two weeks, the maintenance necessary to achieve compliance with the inspection standards. These shall include sanctions against individual owners and repair facilities, retest of failed vehicles following maintenance, use of a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts, and knowledgeable operators

to perform the tasks satisfactorily, and use of such other measures as may be necessary or appropriate.

(4) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This enforcement program might include spot checks of idle adjustments and/or a suitable type of physical tagging. This program shall include appropriate penalties for violation.

(5) Provisions for beginning the first inspection cycle by August 1, 1975, and completing it by July 31, 1976.

(6) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) After July 31, 1976, the State shall not register or allow to operate on public streets or highways any light-duty, medium-duty, or heavy-duty vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) After July 31, 1976, no owner of a light-duty, medium-duty, or heavy-duty vehicle shall operate or allow the operation of such vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(f) The State of Maryland shall submit, no later than February 1, 1974, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section, including:

(1) The text of needed statutory proposals and regulations that it will propose for adoption.

(2) The date by which the State will recommend needed legislation to the State legislature.

(3) The date by which necessary equipment will be ordered.

(4) A signed statement from the Governor or his designee identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation shall be submitted.

§ 52.1090 Bicycle lanes and bicycle storage facilities.

(a) Definitions:

(1) "Bicycle" means a two-wheel, non-motor powered vehicle.

(2) "Bicycle lane" means a route for the exclusive use of bicycles, either constructed specifically for that purpose or converted from an existing lane.

(3) "Bicycle parking facility" means any storage facility for bicycles, which allows bicycles to be locked securely.

(4) "Parking space" means the area allocated by a parking facility for the temporary storage of one automobile.

(5) "Parking facility" means a lot, garage, building, or portion thereof, in or on which motor vehicles are temporarily parked.

(b) This section shall be applicable in the State of Maryland portion of the National Capital Interstate Air Quality Control Region.

(c) On or before July 1, 1976, the State of Maryland shall establish a network of bicycle lanes linking residential areas with employment, educational, and commercial centers in accordance with the following requirements:

(1) The network shall contain no less than 60 miles of bicycle lanes in addition to any in existence as of November 20, 1973.

(2) Each bicycle lane shall at a minimum:

(i) Be clearly marked by signs indicating that the lane is for the exclusive use of bicycles (and pedestrians, if necessary);

(ii) Be separated from motor vehicle traffic by appropriate devices, such as physical barriers, pylons, or painted lanes;

(iii) Be regularly maintained and repaired;

(iv) Be of a hard, smooth surface suitable for bicycles;
(v) Be at least 5 feet wide for one-way traffic, or 8 feet wide for two-way traffic;
(vi) If in a street used by motor vehicles, be a minimum of 8 feet wide whether one-way or two-way; and
(vii) Be adequately lighted.

(3) Off-street bicycle lanes which are not reasonably suited for commuting to and from employment, educational, and commercial centers shall not be considered a part of this network.

(4) On or before October 1, 1974, the State of Maryland shall establish 25 percent of the total mileage of the bicycle lane network; on or before June 1, 1975, 50 percent of the total mileage shall be established; on or before July 1, 1976, 100 percent of the total mileage shall be established.

(d) On or before June 1, 1974, the State of Maryland shall submit to the Administrator a comprehensive study of a bicycle lane and bicycle path network. The study shall include, but not be limited to the following:

(1) A bicycle user and potential user survey, which shall at a minimum determine:

(i) For present bicycle riders, the origin, destination, frequency, travel time, and distance of bicycle trips;
(ii) In high density employment areas, the present modes of transportation of employees and the potential modes of transportation, including the number of employees who would convert to the bicycle mode from other modes upon completion of the bicycle lane network described in paragraph (c) of this section.

(2) A determination of the feasibility and location of on-street bicycle lanes.

(3) A determination of the feasibility and location of off-street lanes.

(4) A determination of the special problems related to feeder lanes to bridges, on-bridge lanes, feeder lanes to METRO and railroad stations, and feeder lanes to fringe parking areas, and the means necessary to include such lanes in the bicycle lane network described in paragraph (c) of this section.

(5) A determination of the feasibility and location of various methods of safe bicycle parking.

(6) The study shall make provision for the receipt of public comments on any matter within the scope of the study, including the location of the bicycle lane network described in paragraph (c) of this section.

(e) By June 1, 1974, in addition to the comprehensive study required pursuant to paragraph (d) of this section, the State of Maryland shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish this network pursuant to paragraphs (c) and (g) of this section. The compliance schedule shall identify in detail the names of streets that will provide bicycle lanes and the location of any lanes to be constructed especially for bicycle use. It shall also include a statement indicating the source, amount, and adequacy of funds to be used in implementing this section, and the text of any needed statutory proposals and needed regulations which will be proposed for adoption.

(f) On or before October 1, 1974, the State of Maryland shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.

(g) On or before June 1, 1975, the State of Maryland shall require all owners and operators of parking facilities (including both free and commercial facilities) within the area specified in paragraph (b) of this section to provide spaces for the storage of bicycles in the following ratio: one automobile-sized parking space (with a bicycle parking facility) for the storage of bicycles for every 75 parking spaces for the storage of autos.

(1) Bicycle parking facilities shall be so located as to be safe from motor vehicle traffic and secure from theft. They shall be properly repaired and maintained.

(2) The METRO Subway System shall provide a sufficient number of safe and secure bicycle parking facilities at each station to meet the needs of its riders.

(3) All parking facilities owned, operated, or leased by the Federal Government shall be subject to this paragraph.

(4) Any owner or operator of a parking facility which charges a fee for the storage of motor vehicles shall store bicycles at a price per unit per hour which is no greater in relation to the cost of storing them than is the price of parking for a motor vehicle in relation to the cost of storing it. Unless the owner or operator makes an affirmative showing to the State of Maryland of different facts, and agrees to charge in conformity with that showing, the ratio in costs and prices shall be determined by the maximum number of bicycles that can be stored in a single standard-sized automobile parking space.

§ 52.1091 Medium-duty air/fuel control retrofit.

(a) Definitions:

(1) "Air/Fuel Control Retrofit" means a system or device (such as modification to the engine's carburetor or positive crankcase ventilation system) that results in engine operation at an increased air/fuel ratio so as to achieve reduction in exhaust emissions of hydrocarbons and carbon monoxide from 1973 and earlier medium-duty vehicles of at least 15 and 30 percent, respectively.

(2) "Medium-duty vehicle" means a gasoline powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(3) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable within the Maryland portion of the National Capital Interstate AQCR.

(c) The State of Maryland shall establish a retrofit program to ensure that on or before May 31, 1976, all medium-duty vehicles of model years prior to 1973 which are not required to be retrofitted with an oxidizing catalyst or other approved device pursuant to § 52.1093 of this chapter, which are registered in the area specified in paragraph (b) of this section, are equipped with an appropriate air/fuel control device or other device as approved by the Administrator that will reduce exhaust emissions of hydrocarbons and carbon monoxide to the same extent as an air/fuel control device. No later than

February 1, 1974, the State of Maryland shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the State proposes for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(d) No later than April 1, 1974, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d)(3) of this section are enforced.

(3) Provisions for beginning the installation of the retrofit devices by August 1, 1975, and completing the installation of the devices on all vehicles subject to this section no later than May 31, 1976.

(4) A provision that no later than May 31, 1976, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.1089 unless it has been first equipped with an approved air/fuel control device, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those persons installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device

installation or some other positive assurance that the device is installed and operating correctly.

(e) After May 31, 1976, the State shall not register or allow to operate on its streets or highways any vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After May 31, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implemented by this section.

(g) The State may exempt any class or category of vehicles from this section which the State finds is rarely used on public streets and highways (such as public streets and highways (such as classic or antique vehicles) or for which the State demonstrates to the Administrator that air/fuel control devices or other devices approved pursuant to this section are not commercially available.

§ 52.1092 Heavy-duty air/fuel control retrofit.

(a) Definitions:

(1) "Air/Fuel Control Retrofit" means a system or device (such as modification to the engine's carburetor or positive crankcase ventilation system) that results in engine operation at an increased air-fuel ratio so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide from heavy-duty vehicles of at least 30 and 40 percent, respectively.

(2) "Heavy-duty vehicle" means a gasoline-powered motor vehicle rated at 10,000 lb gross vehicle weight (GVW) or more.

(3) All other terms used in this section, that are defined in Part 51, Appendix N, are used herein with meanings so defined.

(b) This section is applicable within the Maryland portion of the National Capital Interstate AQCR.

(c) The State of Maryland shall establish a retrofit program to ensure that on or before May 31, 1977, all heavy-duty vehicles registered in the areas specified in paragraph (b) of this section are equipped with an appropriate air/fuel control retrofit or other device as approved by the Administrator that will reduce exhaust emissions of hydrocarbons and carbon monoxide at least to the same extent as an air/fuel control retrofit. No later than April 1, 1974, the State of Maryland shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the State proposes for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than January 1, 1975.

(d) No later than September 1, 1974, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d)(3) of this section are enforced.

(3) Provisions for beginning the installation of the retrofit devices by January 1, 1976, and completing the installation of the device on all vehicles subject to this section no later than May 31, 1977.

(4) A provision that starting no later than May 31, 1977, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.1089 unless it has been first equipped with an approved air/fuel control retrofit, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability

to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(e) After May 31, 1977, the State shall not register or allow to operate on its streets or highways any vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After May 31, 1977, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) The State may exempt any class or category of vehicles from this section which the State finds is rarely used on public streets and highways (such as classic or antique vehicles) or for which the State demonstrates to the Administrator that air/fuel control retrofits or other devices approved pursuant to this section are not commercially available.

§ 52.1093 Oxidizing catalyst retrofit.

(a) Definitions:

(1) "Oxidizing catalyst" means a device that uses a catalyst installed in the exhaust system of a vehicle (and if necessary includes an air pump) so as to achieve a reduction in exhaust emissions of hydrocarbon and carbon monoxide of at least 50 and 50 percent, respectively, 1975 model years, and of at least 50 and 50 percent, respectively, from medium duty vehicles of 1971 through 1975 model years.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) "Medium-duty truck" means a gasoline-powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(4) "Fleet vehicle" means any of 5 or more light duty vehicles operated by the same person(s), business, or governmental entity and used principally in connection with the same or related occupations or uses. This definition shall also include any taxicab (or other light duty vehicle-for-hire) owned by any individual or business.

(5) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable within the Maryland portion of the National Capital Interstate AQCR.

(c) The State of Maryland shall establish a retrofit program to ensure that on or before May 31, 1977, all light-duty fleet vehicles of model years 1971 through 1975, and all medium-duty vehicles of model years 1971 through 1975 which are registered in the area specified in paragraph (b) of this section and are able to operate on 91 RON gasoline are equipped with an appropriate oxidizing catalyst retrofit device, or other device, as approved by the Administrator, that will reduce exhaust emissions of hydrocarbons and carbon monoxide to the same extent as an oxidizing catalyst retrofit device. No later than April 1, 1974, the State of Maryland shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the State proposes for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such data shall be no later than January 1, 1975.

(d) No later than September 1, 1974, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d)(3) of this section are enforced.

(3) Provisions for beginning the installation of the retrofit devices by January 1, 1976, and for completing the installation of the devices on all vehicles subject to this section no later than May 31, 1977.

(4) A provision that starting no later than May 31, 1977, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.1089 unless it has been first equipped with an approved oxidizing catalyst device, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation, or some other positive assurance that the device is installed and operating correctly.

(e) After May 31, 1977, the State shall not register or allow to operate on its streets or highways any vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After May 31, 1977, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) Any vehicle which is manufactured equipped with an oxidizing catalyst, or which is certified to meet the original 1975 light duty vehicle emissions standards set forth in section 202(b)(1)(a) of the Clean Air Act of 1970 (without regard to any suspension of such standards), shall be exempt from the requirements of this section.

§ 52.1094 Vacuum spark advance disconnect retrofit.

(a) Definitions:

(1) "Vacuum spark advance disconnect retrofit" means a device or system installed on a motor vehicle that prevents the ignition vacuum advance from operating either when the vehicle's transmission is in the lower gears, or when the vehicle is traveling below a predetermined speed, so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide from 1967 and earlier light-duty vehicles of at least 25 and 9 percent, respectively.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable within the Maryland portion of the National Capital Interstate AQCR.

(c) The State of Maryland shall establish a retrofit program to ensure that on or before January 1, 1976, all light-duty vehicles of model years prior to 1968 registered in the area specified in paragraph (b) of this section are equipped with an appropriate vacuum spark advance disconnect retrofit device or other device, as approved by the Administrator, that will reduce exhaust emissions of hydrocarbons and carbon monoxide at least to the same extent as a vacuum spark advance disconnect retrofit. No later than February 1, 1974, the State of Maryland shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the State proposes for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve de-

vices for use in this program. Such date shall be no later than September 30, 1974.

(d) No later than April 1, 1974, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d) (3) of this section are enforced.

(3) Provisions for beginning the installation of the retrofit devices by January 1, 1975, and completing the installation of the devices on all vehicles subject to this section no later than January 1, 1976.

(4) A provision that starting no later than January 1, 1976, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for § 52.1089 unless it has been first equipped with an approved vacuum spark advance disconnect retrofit device or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(e) After January 1, 1976, the State shall not register or allow to operate on its streets or highways any light-duty vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After January 1, 1976, no owner of a vehicle subject to this section shall operate or allow the operation

of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) The State may exempt any class or category of vehicles from this section which the State finds is rarely used on public streets and highways (such as classic or antique vehicles) or for which the State demonstrates to the Administrator that vacuum spark advance disconnect devices or other devices approved pursuant to this section are not commercially available.

Subpart VV of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In § 52.2420, paragraph (c) is revised to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) May 4, 1972, by the Virginia Air Pollution Control Board;

(2) April 11, May 30, July 9, and July 11, 1973.

2. In § 52.2422, the first paragraph is labeled as "(a)" and paragraph (b) is added to read as follows:

§ 52.2422 Extensions.

* * * * *

(b) The Administrator hereby extends for two years the attainment dates for the national standards for carbon monoxide and photochemical oxidants in the Virginia portion of the National Capital Interstate Region.

3. Section 52.2423 is revised to read as follows:

§ 52.2423 Approval status.

(a) With the exceptions set forth in this subpart, the Administrator approves Virginia's plan for the attainment and maintenance of the national standards.

(b) With respect to the transportation control strategies submitted on April 11, May 30, July 9, and July 11, 1973, the Administrator approves the measures for the National Capital region for carpool locator, express bus lanes, increased bus fleet and service, elimination of free on-street commuter parking, elimination of free parking by private employers, parking surcharge, inspection of vehicles, dry cleaning solvent use, and gasoline vapor recovery, with the exceptions set forth in §§ 52.2424, 52.2427, 52.2430, 52.2431, 52.2435, and 52.2436. Rectifying provisions are promulgated in this subpart.

§ 52.2424 [Amended]

4. In § 52.2424, paragraph (b) is corrected by inserting the word "sufficient" before the words "interim control measures."

5. In § 52.2427, paragraphs (a) and (b) are labeled as "reserved," paragraph (c) is amended by adding the following sentence at the end of the paragraph, and paragraph (d) is added to read as follows:

§ 52.2427 Source surveillance.

(a) [Reserved]

(b) [Reserved]

(c) * * * Rectifying provisions are promulgated in this section.

(d) *Monitoring transportation sources.* (1) This section is applicable to the Commonwealth of Virginia.

(2) In order to assure the effectiveness of the inspection and maintenance program approved in § 52.2423 and required by § 52.2441, and the retrofit devices required under §§ 52.2444, 52.2445, 52.2446, and 52.2447 the Commonwealth shall monitor the actual per-vehicle emissions reductions occurring as a result of such measures. All data obtained from such monitoring shall be included in the quarterly report submitted to the Administrator by the Commonwealth of Virginia in accordance with § 51.7 of this chapter. The first quarterly report shall cover the period January 1 to March 31, 1976.

(3) In order to assure the effective implementation of the car pool locator, express bus lanes, increased bus fleet and service, elimination of free on-street commuter parking, elimination of free employee parking, and the parking surcharge approved in § 52.2423, the Commonwealth shall monitor vehicle miles traveled and average vehicle speeds for each area in which such sections are in effect and during such time periods as may be appropriate to evaluate the effectiveness of such a program. All data obtained from such monitoring shall be included in the quarterly report submitted to the Administrator by the Commonwealth of Virginia in accordance with § 51.7 of this chapter. The first quarterly report shall cover the period from July 1 to September 30, 1974. The vehicle miles traveled and vehicle speed data shall be collected on a monthly basis and submitted in a format similar to Table 1.

TABLE 1

Time period Affected area	Roadway type	VMT or average vehicle speed	
		Vehicle type (1)	Vehicle type (2)[1]
Freeway			
Arterial			
Collector			
Local			

[1] Continue with other vehicle types as appropriate.

(4) No later than March 1, 1974, the Commonwealth shall submit to the administrator a compliance schedule to implement this section. The program description shall include the following:

(i) The agency or agencies responsible for conducting, overseeing, and maintaining the monitoring program.

(ii) The administrative procedures to be used.

(iii) A description of the methods to be used to collect the emission data, VMT data, and vehicle speed data; a description of the geographical area to which the data apply; identification of the location at which the data will be collected; and the time periods during which the data will be collected.

§ 52.2429 [Amended]

6. In § 52.2429, the attainment date table is amended by replacing the date "May 31, 1975" for attainment of the national standards for carbon monoxide and photochemical oxidants (hydrocarbons) in the National Capital Interstate region with the date "May 31, 1977."

7. Section 52.2430 is revised to read as follows:

§ 52.2430 Legal authority.

(a) The requirements of § 51.11(c) of this chapter are not fully met because the plan does not adequately identify or provide copies of all laws or regulations necessary for implementing the transportation control measures.

(b) The requirements of § 51.11(f) of this chapter are not fully met because it is not clearly demonstrated that all local agencies have requisite legal authority, or that the State retains responsibility for implementing the transportation control measures.

8. Section 52.2431 is revised to read as follows:

§ 52.2431 Control strategy: Carbon monoxide and photochemical oxidants (hydrocarbons).

(a) The requirements of § 51.14(a)(1)(b) and (c) of this chapter are not met because the approvable measures in the transportation control plan are not adequate to attain the national standards in the National Capital region. Inadequate technical justification was provided for the claimed reductions in aircraft emissions, and no strategies were provided for these reductions.

(b) The requirements of § 51.14(a)(2)(iii) of this chapter are not fully met with respect to the expansion of the bus fleet and service because of lack of detail or agreements which will result in the expansion.

(c) The requirements of § 51.14(a)(2)(iv) of this chapter are not fully met because of the lack of an adequate schedule for bus acquisitions, for elimination of employee free parking, and for elimination of free on-street commuter parking.

§ 52.2432 [Reserved]

9. Section 52.2432 is revoked and reserved.

§ 52.2434 [Reserved]

10. Section 52.2432 is revoked and reserved.

11. Section 52.2435 is added to read as follows:

§ 52.2435 Compliance schedules.

(a) The requirements of § 51.15 are not met for the measures for parking surcharge, elimination of free on-street commuter parking, elimination of free employee parking, increased bus fleet and service, and exclusive bus lanes. Provisions to implement the requirements of § 51.15 are promulgated in this section.

(b) With respect to the parking surcharge measure approved in § 52.2423:

(1) The Commonwealth of Virginia shall no later than June 30, 1974, submit to the Administrator for his approval a precise description of areas within the Virginia portion of the National Capital AQCR which are at that time adequately served by mass transit, and those areas which in the judgment of the Commonwealth will be adequately served by mass transit by June 30, 1975. The documentation and policy assumptions used to select these areas shall be included with this submission.

(2) The Commonwealth of Virginia shall by June 30, 1975, and each succeeding year submit to the Administrator for his approval a revised list of those areas which are adequately served by mass transit. Additional areas must be included as mass transit service is increased, unless the Commonwealth of Virginia can affirmatively demonstrate that no additional areas can be included.

(3) Each political subdivision of the Commonwealth of Virginia which has jurisdiction over any area (or portion thereof) designated as adequately served by mass transit shall, no later than October 1, 1974, submit to the Administrator legally adopted regulations instituting the parking surcharge on all long term (6 hour) parking in all commercial parking facilities (except to the extent they are used for residential parking) and all facilities subject to §§ 52.2435(d) and 52.2437 in those areas adequately served by mass transit within the control of each such political subdivision. The parking surcharge shall be implemented and collected according to the following schedule:

June 30, 1975-Dec. 31, 1975	$0.50
January 1, 1976-June 30, 1976	1.00
July 1, 1976-Dec. 31, 1976	1.50
January 1, 1977	2.00

All monies collected under this program shall be turned over to the appropriate political subdivision. All proceeds from this program shall be used for the expansion and operation of mass transit. Any handicapped person who is unable to use mass transit shall not be subject to the surcharge. The parking surcharge shall not apply to any parking begun between the hours of 6 p.m. and 2 a.m.

(c) With respect to the measure for elimination of free on-street commuter parking approved in § 52.2423:

(1) Each potential subdivision of the Commonwealth of Virginia within the National Capital AQCR shall, no later than June 30, 1974, submit to the Administrator for his approval a compliance schedule, including legally adopted regulations, enforcement procedures, and a description of resources available. The compliance schedule shall provide:

(i) For implementing the on-street parking ban in all areas within which a surcharge will be required by paragraph (b) of this section. This program shall prohibit all

parking for more than two hours by non-residents of the area subject to the ban during the hours from 7 a.m. to 7 p.m. Monday through Friday (excepting holidays) on any street within such areas. The program shall also provide for a sticker system, under which residents of such area may also be exempted from the ban, and for a system (whether by notification to the enforcement authorities, or otherwise) for also exempting bona fide visitors to residents of such areas from the ban.

(ii) The precise resources that will be devoted to enforcing this measure, the method of enforcement to be used (for example, chalking tires), and the penalties for violation. The compliance schedule shall at a minimum provide that violators shall be subject to a $10.00 fine.

(d) With respect to the measure for elimination of free employee parking approved in § 52.2423:

(1) For purposes of this paragraph "Commercial Parking Rate" shall mean the average daily rate charged by the three operators of parking facilities containing 25 or more commercial parking spaces that are closest in location to any employee parking space affected by this paragraph.

(2) The Commonwealth of Virginia shall, no later than June 30, 1974, submit to the Administrator for his approval a precise description of areas within the Commonwealth of Virginia which are at that time adequately served by mass transit, and those areas which in the judgment of the Commonwealth of Virginia will be adequately served by mass transit by June 30, 1975. The documentation and policy assumptions used to select these areas shall be included with this submission.

(3) The Commonwealth of Virginia shall by June 30, 1975, and each succeeding year, submit to the Administrator for his approval a revised list of those areas which are adequately served by mass transit. Additional areas must be included as mass transit service is increased, unless the Commonwealth of Virginia can affirmatively demonstrate that no additional areas can be included.

(4) Each political subdivision of the Commonwealth of Virginia which has jurisdiction over any area desig-

nated as adequately served by mass transit shall, no later than October 1, 1974, submit to the Administrator legally adopted regulations instituting commercial parking rates by June 30, 1975, on all employers, public (excluding federal government) or private with 25 or more employee spaces located in those areas adequately served by mass transit within the Virginia portion of the National Capital Interstate AQCR. Any handicapped person who is unable to use mass transit shall not be subject to the commercial parking rate. The commercial parking rate shall not apply to any employee parking begun between the hours of 6 p.m. and 2 a.m.

(e) With respect to the measure for increased bus fleet and service approved in § 52.2423. The Commonwealth of Virginia shall no later than January 31, 1974, submit a compliance schedule to put the program in effect. The compliance schedule shall, at a minimum, provide that the Commonwealth of Virginia shall, on or before March 1, 1974, submit to the Administrator a statement, signed both by a representative of the Commonwealth of Virginia and by a representative of the Washington Metropolitan Area Transit Authority (WMATA) indicating that, in the judgment of both of them, financial commitments have been made by the Commonwealth of Virginia or by its local governments for the purchase of buses. This statement, when taken in conjunction with the commitments made by the District of Columbia and the State of Maryland, must be sufficient to enable WMATA to purchase in the fiscal year beginning the next July 1 the number of buses indicated below:

Fiscal Year 1975—175 buses

Fiscal Year 1976—150 buses

Fiscal Year 1977—150 buses

The statement shall also indicate that WMATA has in fact committed to purchase that number of buses.

(f) With respect to the express bus lane measure approved in § 52.2423:

(1) The Commonwealth of Virginia shall no later than January 1, 1975, establish exclusive bus lanes in the following corridors:

(i) George Washington Parkway—Washington Street —Jefferson Davis Highway from Fort Hunt to National Airport.

(ii) U.S. Route 50 from Seven Corners to the Virginia-District of Columbia boundary.

Such lanes shall be inbound during the morning peak period and outbound during the evening peak period.

(2) The Commonwealth of Virginia shall submit to the Administrator, no later than March 1, 1974, a schedule showing the steps which it will take to establish exclusive bus lanes in those corridors enumerated in paragraph (f) (1) of this section. Each schedule shall be subject to approval by the Administrator and shall include as a minimum the following:

(i) Identification of streets or highways that shall have portions designated for exclusive bus lanes.

(ii) The date by which each street or highway shall be designated.

(3) Exclusive bus lanes must be prominently indicated by distinctively painted lines, pylons, overhead signs, or physical barriers.

(4) Application for substitution of a corridor for any of those listed in paragraph (f) (1) of this section shall be made by the Commonwealth of Virginia for the Administrator's approval no later than March 1, 1974.

12. Section 52.2436 is added to read as follows:

§ 52.2436 Rules and regulations.

(a) The requirements of § 51.22 are not met because regulations have not been adopted and submitted for the stationary source measures aimed at reducing gasoline handling and dry cleaning losses. Substitute regulations are promulgated in §§ 52.2438, 52.2439, and 52.2440.

13. Sections 52.2437 through 52.2447 are added to read as follows:

§ 52.2437 Federal parking facilities.

(a) Definitions. For the purposes of this section,

(1) "Administrative Officer" means the Administrator of General Services, the Marshal of the Supreme Court of the United States, the Architect of the Capitol, and any other representative of a Federal Government entity designated as such for the purposes of this section by the Administrator.

(2) "Commercial value" means a value which approximates commercial charges for space and services for like facilities in the immediate vicinity of a Federal facility. In the absence of commercial facilities, commercial value should be established using the fair market value of a Federal facility and the cost of services being provided as a basis.

(3) "Designated area" means an area defined by § 52.2435(b)(1).

(4) "Federal Government entity" means a Federal department, agency, bureau, board, office, commission, district, or an instrumentality of the executive, legislative, and judicial branches of the Federal Government. Foreign embassies are not subject to this regulation.

(5) "Parking facility" (also called "facility") means any lot, garage, building or structure, or any combination or portion thereof, in or on which motor vehicles are temporarily parked.

(6) "Residential parking space" means any parking space used primarily for the parking of vehicles of persons residing within one-half mile of the space.

(b) This section shall be applicable in the Commonwealth of Virginia portion of the National Capital Interstate Air Quality Control Region.

(c) Commencing July 1, 1975, rates based upon the commercial value shall be charged employees for parking a motor vehicle in any facility which is owned, operated, leased or otherwise controlled by any Federal Government entity and which is located in a designated area; provided, however, that such commercial value shall not apply (1) to parking begun between the hours of 6:00

p.m. and 2 a.m., (2) to residential parking spaces contained in or on the facility, (3) to vehicles owned or leased by the Federal Government, and (4) to any vehicle exempted under paragraph (d)(2) of this section.

(d)(1) Each Administrative Officer shall adopt a plan which shall require each Federal Government entity under his authority to which this section applies to implement paragraph (c) of this section.

(2) The plan may provide for exemption from the requirements of paragraph (c) of this section for space assigned to handicapped persons who are physically unable to use mass transit.

(3) The Administrator of the Environmental Protection Agency will promulgate such a plan by May 1, 1974, for any parking facility of any Federal Government entity to which this section applies which is not under the authority of an Administrative Officer. Any such Federal Government entity may apply to the Administrator before January 4, 1974, for designation of an "Administrative Officer" and permission to submit its own plan.

(4) Each Administrative Officer shall submit to EPA, no later than July 1, 1974, an outline of the plan required by this paragraph, and the effective date of the plan, which date shall be no later than July 1, 1975. The plan required by this paragraph covering all subject facilities of government entities which are part of the executive branch of the Federal Government shall be coordinated with the Administrator of General Services.

§ 52.2438 Gasoline transfer vapor control.

(a) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the Virginia portion of the National Capital Interstate AQCR.

(c) No person shall transfer gasoline from any delivery vessel into any stationary storage container with a capacity greater than 250 gallons unless the displaced vapors from the storage container are processed by a system that prevents release to the atmosphere of no less than 90 percent by weight of organic compounds in said vapors displaced from the stationary container location.

(1) The vapor recovery portion of the system shall include one or more of the following:

(i) A vapor tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline can be transferred into the container.

(ii) Refrigeration-condensation system or equivalent designed to recover no less than 90 percent by weight of the organic compounds in the displaced vapor.

(2) If a "vapor-tight vapor return" system is used to meet the requirements of this section, the system shall be so constructed as to be readily adapted to retrofit with an adsorption system, refrigeration-condensation system, or equivalent vapor removal system, and so constructed as to anticipate compliance with § 52.2439.

(3) The vapor-laden delivery vessel shall be subject to the following conditions:

(i) The delivery vessel must be so designed and maintained as to be vapor-tight at all times.

(ii) The vapor-laden delivery vessel may be refilled only at facilities equipped with vapor recovery systems or the equivalent, which can recover at least 90 percent by weight of the organic compounds in the vapors displaced from the delivery vessel during refilling.

(iii) Gasoline storage compartments of one thousand gallons or less in gasoline delivery vehicles presently in use on the promulgation date of this regulation will not be required to be retrofitted with a vapor return system until January 1, 1977.

(d) The provisions of paragraph (c) of this section shall not apply to the following:

(1) Stationary containers having a capacity less than 550 gallons used exclusively for the fueling of implements of husbandry.

(2) Any container having a capacity less than 2,000 gallons installed prior to promulgation of this section.

(3) Transfers made to storage tanks equipped with floating roofs or their equivalent.

(e) Every owner or operator of a stationary storage container or delivery vessel subject to this section shall comply with the following compliance schedule:

(1) April 1, 1974—Submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with the provisions of paragraph (c) of this section.

(2) May 1, 1974—Negotiate and sign all necessary contracts for emission control systems, or issue orders for the purchase of component parts to accomplish emission control.

(3) January 1, 1975—Initiate on-site construction or installation of emission control equipment.

(4) February 1, 1976—Complete on-site construction or installation of emission control equipment.

(5) March 1, 1976—Assure final compliance with the provisions of paragraph (c) of this section.

(6) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(f) Paragraph (e) of this section shall not apply:

(1) To a source which is presently in compliance with the provisions of paragraph (c) of this section and which has certified such compliance to the Administrator by January 31, 1974. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator, by January 31, 1974, a proposed alternative schedule. No such schedule may provide for compliance after March 1, 1976. Any such schedule shall provide for certification to the Administrator, within 5 days after the deadline for each increment therein, as to whether or not that increment has been met. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(g) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (e) of this section fails to satisfy the requirements of § 51.15(b) and (c) of this chapter.

(h) Any gasoline dispensing facility subject to this section which installs a storage tank after the effective date of this section shall comply with the requirements of paragraph (c) of this section by March 1, 1976, and prior to that date shall comply with paragraph (e) of this section as far as possible. Any facility subject to this section which installs a storage tank after March 1, 1976, shall comply with the requirements of paragraph (c) of this section at the time of installation.

§ 52.2438 Control of evaporative losses from the filling of vehicular tanks.

(a) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the Virginia portion of the National Capital Interstate AQCR.

(c) A person shall not transfer gasoline to an automotive fuel tank from a gasoline dispensing system unless the transfer is made through a fill nozzle designed to:

(1) Prevent discharge of hydrocarbon vapors to the atmosphere from either the vehicle filler neck or dispensing nozzle;

(2) Direct vapor displaced from the automotive fuel tank to a system wherein at least 90 percent by weight of the organic compounds in displaced vapors are recovered; and

(3) Prevent automotive fuel tank overfills or spillage on fill nozzle disconnect.

(d) The system referred to in paragraph (c) of this section may consist of a vapor-tight return line from the fill nozzle-filler neck interface to the dispensing tank or to an adsorption, absorption, incineration, refrigeration-condensation system or its equivalent.

(e) Components of the systems required by § 52.2439 may be used for compliance with paragraph (c) of this section.

(f) If it is demonstrated to the satisfaction of the Administrator that it is impractical to comply with the provisions of paragraph (c) of this section as a result of vehicle fill neck configuration, location, or other design features of a class of vehicles, the provisions of this section shall not apply to such vehicles. However, in no case shall such configuration exempt any gasoline dispensing facility from installing and using in the most effective manner a system required by paragraph (c) of this section.

(g) Every owner or operator of a gasoline dispensing system subject to this section shall comply with the following compliance schedule:

(1) February 1, 1974—Submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with the provisions of paragraph (c) of this section.

(2) June 1, 1974—Negotiate and sign all necessary contracts for emission control systems, or issue orders for the purchase of component parts to accomplish emission control.

(3) January 1, 1975—Initiate on-site construction or installation of emission control equipment.

(4) May 1, 1977—complete on-site construction installation of emission control equipment or process modification.

(5) May 31, 1977—Assure final compliance with the provisions of paragraph (c) of this section.

(6) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(h) Paragraph (g) of this section shall not apply:

(1) To a source which is presently in compliance with the provisions of paragraph (c) of this section and which has certified such compliance to the Administrator by January 31, 1974. The Administrator may request what-

ever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator, by January 31, 1974, a proposed alternative schedule. No such schedule may provide for compliance after May 31, 1977. Any such schedule shall provide for certification to the Administrator, within 5 days after the deadline for each increment therein, as to whether or not that increment has been met. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(i) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (g) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

(j) Any gasoline dispensing facility subject to this section which installs a gasoline dispensing system after the effective date of this section shall comply with the requirements of paragraph (c) of this section by May 31, 1977, and prior to that date shall comply with paragraph (g) of this section as far as possible. Any facility subject to this section which installs a gasoline dispensing system after May 31, 1977, shall comply with the requirements of paragraph (c) of this section at the time of installation.

§ 52.2440 Control of dry cleaning solvent evaporation.

(a) Definitions:

(1) "Dry cleaning operation" means that process by which an organic solvent is used in the commercial cleaning of garments and other fabric materials.

(2) "Organic solvents" means organic materials, including diluents and thinners, which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents.

(3) "Photochemically reactive solvent" means any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, as applied to the total volume of solvent.

(i) A combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cyclo-olefinic type of unsaturation: 5 percent;

(ii) A combination of aromatic compounds with 8 or more carbon atoms to the molecule except ethylbenyenl: 8 percent;

(iii) A combinaion of ethylbenyene or ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent.

(b) This section is applicable to the Virginia portion of the National Capital Interstate Region.

(c) No person shall operate a dry cleaning operation using other than perchloroethylene, 1,1,1-trichloroethane, or saturated halogenated hydrocarbons unless the uncontrolled organic emissions from such operation are reduced at least 85 percent; provided, that dry cleaning operations emitting less than 8 pounds per hour and less than 40 pounds per day of uncontrolled organic materials are exempt from the requirement of this section.

(d) If incineration is used as a control technique, 90 percent or more of the carbon in the organic emissions being incinerated must be oxidized to carbon dioxide.

(e) Any owner or operator of a source subject to this section shall achieve compliance with the requirements of paragraph (c) of this section by discontinuing the use of photochemically reactive solvents no later than January 31, 1974, or by controlling emissions as required by paragraphs (c) and (d) of this section no later than May 31, 1975.

§ 52.2441 Inspection and maintenance program.

(a) Definitions:

(1) "Inspection and maintenance program" means a program for reducing emissions from in-use vehicles

through identifying vehicles that need emission control related maintenance and requiring that such maintenance be performed.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) "Medium-duty vehicle" means a gasoline-powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(4) "Heavy-duty vehicle" means a gasoline-powered motor vehicle rated at 10,000 lb GVW or more.

(5) All other terms used in this section that are defined in Part 51, Appendix N, are used herein with the meanings so defined.

(b) This section is applicable within the Virginia portion of the National Capital Interstate AQCR.

(c) In connection with the light-duty vehicle inspection and maintenance program for the area specified in paragraph (b) of this section approved by the Administrator pursuant to § 52.2423, the Commonwealth of Virginia shall establish an inspection and maintenance program applicable to all medium-duty and heavy-duty vehicles registered in any area specified in paragraph (b) of this section that operate on public streets or highways over which it has ownership or control. The Commonwealth may exempt any class or category of vehicles that the Commonwealth finds is rarely used on public streets or highways (such as classic or antique vehicles). No later than April 1, 1974, the Commonwealth shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Provisions for inspection of all medium-duty and heavy-duty motor vehicles at periodic intervals no more than 1 year apart by means of an idle emission test.

(2) Provisions for inspection failure criteria consistent with the failure of 30 percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive, within two weeks, the maintenance necessary to achieve compliance with the inspection standards. These shall include sanctions against individual owners and repair

facilities, retest of failed vehicles following maintenance, use of a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts, and knowledgeable operators to perform the tasks satisfactorily, and use of such other measures as may be necessary or appropriate.

(4) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This enforcement program might include spot checks of idle adjustments and/or a suitable type of physical tagging. This program shall include appropriate penalties for violation.

(5) Provisions for beginning the first inspection cycle by January 1, 1975, and completing it by January 1, 1976.

(6) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) After January 1, 1976, the Commonwealth shall not register or allow to operate on public streets or highways any medium-duty or heavy-duty vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) After January 1, 1976, no owner of a medium-duty or heavy-duty vehicle shall operate or allow the operation of such vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(f) The Commonwealth of Virginia shall submit, no later than February 1, 1974, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section, including:

(1) The text of needed statutory proposals and regulations that it will propose for adoption.

(2) The date by which the Commonwealth will recommend needed legislation to the legislature.

(3) The date by which necessary equipment will be ordered.

(4) A signed statement from the Governor or his designee identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation shall be submitted.

§ 52.2442 Bicycle lanes and bicycle storage facilities.

(a) Definitions:

(1) "Bicycle" means a two-wheel, non-motor powered vehicle.

(2) "Bicycle lane" means a route for the exclusive use of bicycles, either constructed specifically for that purpose or converted from an existing lane.

(3) "Bicycle parking facility" means any storage facility for bicycles, which allows bicycles to be locked securely.

(4) "Parking space" means the area allocated by a parking facility for the temporary storage of one automobile.

(5) "Parking facility" means a lot, garage, building, or portion thereof, in or on which motor vehicles are temporarily parked.

(b) This section shall be applicable in the Commonwealth of Virginia portion of the National Capital Interstate Air Quality Control Region.

(c) On or before July 1, 1976, the Commonwealth of Virginia shall establish a network of bicycle lanes linking residential areas with employment, educational, and commercial centers in accordance with the following requirements:

(1) The network shall contain no less than 60 miles of bicycle lanes in addition to any in existence as of November 20, 1973.

(2) Each bicycle lane shall at a minimum:

(i) Be clearly marked by signs indicating that the lane is for the exclusive use of bicycles (and pedestrians, if necessary);

(ii) Be separated from motor vehicle traffic by appropriate devices, such as physical barriers, pylons, or painted lines;

(iii) Be regularly maintained and repaired;

(iv) Be of a hard, smooth surface suitable for bicycles;

(v) Be at least 5 feet wide for one-way traffic, or 8 feet wide for two-way traffic;

(vi) If in a street used by motor vehicles, be a minimum of 8 feet wide whether one-way or two-way; and

(vii) Be adequately lighted.

(3) Off-street bicycle lanes which are not reasonably suited for commuting to and from employment, educational, and commercial centers shall not be considered a part of this network.

(4) On or before October 1, 1974, the Commonwealth of Virginia shall establish 25 percent of the total mileage of the bicycle lane network; on or before June 1, 1975, 50 percent of the total mileage shall be established; on or before July 1, 1976, 100 percent of the total mileage shall be established.

(d) On or before June 1, 1974, the Commonwealth of Virginia shall submit to the Administrator a comprehensive study of a bicycle lane and bicycle path network. The study shall include, but not be limited to the following:

(1) A bicycle user and potential user survey, which shall at a minimum determine:

(i) For present bicycle riders, the origin, destination, frequency, travel time, and distance of bicycle trips;

(ii) In high density employment areas, the present modes of transportation of employees and the potential modes of transportation, including the number of employees who would convert to the bicycle mode from other modes upon completion of the bicycle lane network described in paragraph (c) of this section.

(2) A determination of the feasibility and location of on-street bicycle lanes.

(3) A determination of the feasibility and location of off-street lanes.

(4) A determination of the special problems related to feeder lanes to bridges, on-bridge lanes, feeder lanes to METRO and railroad stations, and feeder lanes to fringe parking areas, and the means necessary to include such lanes in the bicycle lane network described in paragraph (c) of this section.

(5) A determination of the feasibility and location of various methods of safe bicycle parking.

(6) The study shall make provision for the receipt of public comments on any matter within the scope of the study, including the location of the bicycle lane network described in paragraph (c) of this section.

(e) By June 1, 1974, in addition to the comprehensive study required pursuant to paragraph (d) of this section, the Commonwealth of Virginia shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish this network pursuant to paragraphs (c) and (g) of this section. The compliance schedule shall identify in detail the names of streets that will provide bicycle lanes and the location of any lanes to be constructed especially for bicycle use. It shall also include a statement indicating the source, amount, and adequacy of funds to be used in implementing this section, and the text of any needed statutory proposals and needed regulations which will be proposed for adoption.

(f) On or before October 1, 1974, the Commonwealth of Virginia shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.

(g) On or before June 1, 1975, the Commonwealth of Virginia shall require all owners and operators of parking facilities containing more than 50 parking spaces (including both free and commercial facilities) within the area specified in paragraph (b) of this section to provide spaces for the storage of bicycles in the following ratio: one automobile-size parking space (with a bicycle parking facility) for the storage of bicycles for every 75 parking spaces for the storage of autos. The Commonwealth shall also require that:

(1) Bicycle parking facilities shall be so located as to be safe from motor vehicle traffic and secure from theft. They shall be properly repaired and maintained.

(2) The METRO Subway System shall provide a sufficient number of safe and secure bicycle parking facilities at each station to meet the needs of its riders.

(3) All parking facilities owned, operated, or leased by the Federal Government shall be subject to this paragraph.

(4) Any owner or operator of a parking facility which charges a fee for the storage of motor vehicles shall store bicycles at a price per unit per hour which is no greater in relation to the cost of storing them than is the price of parking for a motor vehicle in relation to the cost of storing it. Unless the owner or operator makes an affirmative showing to the Commonwealth of Virginia of different facts, and agrees to charge in conformity with that showing, the ratio in costs and prices shall be determined by the maximum number of bicycles that can be stored in a single standard-sized automobile parking space.

§ 52.2444 Medium duty air/fuel control retrofit.

(a) Defiintions:

(1) "Air/Fuel Control Retrofit" means a system or device (such as modification to the engine's carburetor or positive crankcase ventilation system) that results in engine operation at an increased air-fuel ratio so as to achieve reductions in exhaust emissions of hydrocarbon and carbon monoxide from 1973 and earlier medium-duty vehicles of at least 15 and 30 percent, respectively.

(2) "Medium-duty vehicle" means a gasoline powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(3) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable within the Virginia portion of the National Capital Interstate AQCR.

(c) The Commonwealth of Virginia shall establish a retrofit program to ensure that on or before May 31, 1976, all medium-duty vehicles of model years prior to 1973 which are not required to be retrofitted with an oxidizing catalyst or other approved device pursuant to § 52.2446, which are registered in the area specified in paragraph (b) of this section, are equipped with an appropriate Air/Fuel Control device or other device as approved by the Administrator that will reduce exhaust emissions of hydrocarbon and carbon monoxide to the same extent as an air/fuel control device. No later than February 1, 1974, the Commonwealth of Virginia shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the Commonwealth proposes for adoption. The compliance schedule shall also include a date by which the Commonwealth shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(d) No later than April 1, 1974, the Commonwealth shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d) (3) of this section are enforced.

(3) Provisions for beginning the installation of the devices by August 1, 1975, and completing the installation of the devices on all vehicles subject to this section no later than May 31, 1976.

(4) A provision that no later than May 31, 1976, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.2441 unless it has been first equipped with an approved air/fuel control device, or other device approved

pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those persons installing the retrofit device have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(e) After May 31, 1976, the Commonwealth shall not register or allow to operate on its streets or highways any vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After May 31, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implemented by this section.

(g) The Commonwealth may exempt any class or category of vehicles from this section which the Commonwealth finds is rarely used on public streets and highways (such as classic or antique vehicles) or for which the Commonwealth demonstrates to the Administrator that air/fuel control devices or other devices approved pursuant to this section are not commercially available.

§ 52.2445 Heavy duty air/fuel control retrofit.

(a) Definitions:

(1) "Air/Fuel Control Retrofit" means a system or device (such as modification to the engine's carburetor or positive crank case ventilation system) that results in engine operation at an increased air/fuel ratio so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide from heavy-duty vehicles of at least 30 and 40 percent, respectively.

(2) "Heavy duty vehicle" means a gasoline-powered motor vehicle rated at 10,000 lb gross vehicle weight or more.

(3) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable within the Virginia portion of the National Capital Interstate AQCR.

(c) The Commonwealth of Virginia shall establish a retrofit program to ensure that on or before May 31, 1977, all heavy duty vehicles registered in the area specified in paragraph (b) of this section are equipped with an appropriate air/fuel control device or other device as approved by the Administrator that will reduce exhaust emissions of hydrocarbons and carbon monoxide to the same extent as an air/fuel control device. No later than April 1, 1974, the Commonwealth of Virginia shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the Commonwealth proposes for adoption. The compliance schedule shall also include a date by which the Commonwealth shall evaluate and approve devices for use in this program. Such date shall be no later than January 1, 1975.

(d) No later than September 1, 1974, the Commonwealth shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d)(3) of this section are enforced.

(3) Provisions for beginning the installation of the retrofit devices by January 1, 1976, and completing the installation of the devices on all vehicles subject to this section no later than May 31, 1977.

(4) A provision that starting no later than May 31, 1977, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.2441 unless it has been first equipped with an approved air/fuel control device, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(g) The Commonwealth may exempt any class or category of vehicles from this section which the Commonwealth finds is rarely used on public streets and highways (such as classic or antique vehicles) or for which the Commonwealth demonstrates to the Administrator that air/fuel control device or other devices approved pursuant to this section are not commercially available.

§ 52.2446 Oxidizing catalyst retrofit.

(a) Definitions:

(1) "Oxidizing catalyst" means a device that uses a catalyst installed in the exhaust system of a vehicle (and if necessary includes an air pump) so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide of at least 50 and 50 percent, respectively, from light duty vehicles of 1971 through 1975 model years, and of at least 50 and 50 percent, respectively, from medium duty vehicles of 1971 through 1975 model years.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) "Medium-duty vehicle" means a gasoline-powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(4) "Fleet vehicle" means any of 5 or more light-duty vehicles operated by the same person(s), business, or governmental entity and used principally in connection with the same or related occupations or uses. This definition shall also include any taxicab (or other light-duty vehicle-for-hire) owned by any individual or business.

(5) All other terms used in this section that are defined in Part 51, Appendix N, are used herein with meanings so defined.

(b) This section is applicable within the Virginia portion of the National Capital Interstate AQCR.

(c) The Commonwealth of Virginia shall establish a retrofit program to ensure that on or before May 31, 1977, all light-duty fleet vehicles of model years 1971 through 1975 and medium-duty vehicles of model years 1971 through 1975 which are registered in the area specified in paragraph (b) of this section and are able to operate on 91 RON gasoline, are equipped with an appropriate oxidizing catalyst retrofit device or other device, as approved by the Administrator, that will reduce exhaust emissions of hydrocarbons and carbon monoxide to the same extent as an oxidizing catalyst retrofit device. No later than April 1, 1974, the Commonwealth of Virginia shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the Commonwealth proposes for adoption. The compliance schedule shall also include a date by which the Commonwealth shall evaluate and approve devices for use in this program. Such date shall be no later than January 1, 1975.

(d) No later than September 1, 1974, the Commonwealth shall submit legally adopted regulations to the Administrator establishing such a program. The regulation shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d)(3) of this section are enforced.

(3) Provisions for beginning the installation of the retrofit devices by January 1, 1976, and completing the installation of the devices on all vehicles subject to this section no later than May 31, 1977.

(4) A provision that starting no later than May 31, 1977, no vehicle for which retrofit is required under this section shall pass the annual emission test provided for by §§ 52.2423 and 52.2441 unless it has been first equipped with an approved oxidizing catalyst device, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(e) After May 31, 1977, the Commonwealth shall not register or allow to operate on its streets or highways any vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After May 31, 1977, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) Any vehicle which is manufactured equipped with an oxidizing catalyst, or which is certified to meet the

original 1975 light-duty vehicle emission standards set forth in section 202(b)(1)(A) of the Clean Air Act of 1970 (without regard to any suspension of such standards), shall be exempt from the requirements of this section.

§ 52.2447 Vacuum spark advance disconnect retrofit.

(a) Definitions:

(1) "Vacuum spark advance disconnect retrofit" means a device or system installed on a motor vehicle that prevents the ignition vacuum advance from operating either when the vehicle's transmission is in the lower gears, or when the vehicle is traveling below a predetermined speed so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide from 1967 and earlier light-duty vehicles of at least 25 and 9 percent, respectively.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) All other terms used in this section that are defined in Part 51, Appendix N, are used herein with meanings so defined.

(b) This section is applicable within the Virginia portion of the National Capital Interstate AQCR.

(c) The Commonwealth of Virginia shall establish a retrofit program to ensure that on or before January 1, 1976, all light-duty vehicles of model years prior to 1968 registered in the area specified in paragraph (b) of this section are equipped with an appropriate vacuum spark advance disconnect retrofit device or other device, as approved by the Administrator, that will reduce exhaust emissions of hydrocarbons and carbon monoxide to the same extent as a vacuum spark advance disconnect retrofit. No later than February 1, 1974, the Commonwealth of Virginia shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the Commonwealth proposes for adotpion. The compliance schedule shall also include a date by which the Commonwealth shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(d) No later than April 1, 1974, the Commonwealth shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d)(3) of this section are enforced.

(3) Provisions for beginning the installation of the retrofit devices by January 1, 1975, and completing the installation of the devices on all vehicles subject to this section no later than January 1, 1976.

(4) A provision that starting no later than January 1, 1976, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.2423 unless it has been first equipped with an approved vacuum spark advance disconnect retrofit device, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation, or some other positive assurance that the device is installed and operating correctly.

(e) After January 1, 1976, the Commonwealth shall not register or allow to operate on its streets or highways any light-duty vehicle that does not comply with

the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After January 1, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) The Commonwealth may exempt any class or category of vehicles from this section which the Commonwealth finds is rarely used on public streets and highways (such as classic or antique vehicles) or for which the Commonwealth demonstrates to the Administrator that vacuum spark advance disconnect devices or other devices approved pursuant to this section are not commercially available.

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Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Baltimore, Maryland Transportation Control Plan

This rulemaking sets forth a transportation control plan for the Metropolitan Baltimore Intrastate Air Quality Control Region (AQCR). A general preamble was published on November 6, 1973, in the FEDERAL REGISTER (38 FR 30626) and is incorporated by reference herein.

BACKGROUND

On June 15, 1973, the Administrator disapproved in part the transportation control plan submitted on April 16, 1973 by the State of Maryland for attainment of primary national ambient air quality standards for carbon monoxide (CO), hydrocarbons (HC), oxides of nitrogen (NO_x), and photochemical oxidants (Ox) in the Metropolitan Baltimore Intrastate Region (38 FR 16550, June 22, 1973). Subsequent amendments to the plan were submitted to the Environmental Protection Agency (EPA) on June 15, 1973, June 28, 1973 and July 9, 1973. Although the plan and its amendments contained a number of generally acceptable strategies, the plan lacked adequate legal and technical assurances that the anticipated emissions reductions could be realized and the air quality standards in fact attained.

Maryland's request for a 2-year extension in attaining standards also was disapproved because it lacked adequate data to support a conclusion that strategies needed to attain standards by May 31, 1975 (or even by some later date up to May 31, 1977) are technically infeasible and also because the plan did not show adequate consid-

eration of available alternative strategies. On August 2, 1973 (38 FR 20769, August 2, 1973), the Administrator proposed regulations to supplement the strategies contained in the Maryland plan to bring it into conformance with requirements of the law, and also proposed added strategies to achieve further emission reductions needed to assure the attainment of standards. Those strategies and associated regulations which were proposed were gasoline handling vapor recovery, inspection and maintenance, bus/carpool computer matching system, management of parking supply, limitation of public parking, preferential bus/carpool treatment, vacuum spark advance disconnect, oxidizing catalyst retrofit, and gasoline distribution limitations.

A public hearing on the EPA plan was held in Baltimore, Maryland, on September 5, 1973. A total of 69 statements was presented during the hearing, and a total of 16 letters was received both before and after the hearings from private citizens, representatives of business, industry, and institutions, and spokesmen for environmental organizations. The control measures promulgated herewith reflect comments received in the letters and at the public hearing.

Air Pollution in the Metropolitan Baltimore Interstate AQCR

Natural features. The geographic area of the Metropolitan Baltimore Intrastate Air Quality Control Region is 2,364 square miles. The boundaries for the region conform to those of the Baltimore Standard Metropolitan Statistical Area. This includes the City of Baltimore and the counties of Anne Arundel, Baltimore, Carroll, Harford, and Howard. The region forms the western edge of the northern section of the Chesapeake Bay. The Blue Ridge and Allegheny Mountains lie westward of the region, providing a geographical basin in which pollution can be trapped. The region lies within the rolling Piedmont Plateau on the nearly flat Atlantic Coastal Plain. The eastern portion is generally flat, with elevations of

less than 500 feet; progressing westward across the region, the elevation gradually rises to the gently rolling areas of Carroll and Howard Counties; elevations in the western areas of the region reach 1,000 feet. The topography generally permits free air movement with few channeling effects.

Climatology. Baltimore is in an area where unusual meteorological conditions conducive to the accumulation of large quantities of pollutants in the atmosphere over the urban area can and do take place from time to time. Concentrations of atmospheric pollutants increase when the volume of air into which they are dispersed is decreased. In the atmosphere this occurs when the vertical extent to which mixing of the pollutants can take place is limited and the wind speed is low. When both these conditions occur in the extreme and emissions of air contaminants continue, concentrations of air pollutants can increase to the point that they become an immediate danger to human health.

Formation of photochemical oxidants will not take place unless strong sunlight is also present since an external source of energy is needed in the oxidant producing chemical reactions. Episodes of photochemical oxidants will then occur only when the three requirements of limited vertical mixing, light winds, and strong sunlight are all present.

The following pertinent data for the Baltimore area are given by Holzworth ("Mixing Heights, Wind Speeds, and Potential for Urban Air Pollution throughout the Contiguous United States," U.S. Environmental Protection Agency, 1971):

	650 meters
Mean annual morning mixing height	500 meters
	1400 meters
Mean summer morning mixing height	1800 meters
	5.5 m/s
Mean annual afternoon mixing height	4 m/s
	7 m/s
Mean summer afternoon mixing height	5.5 m/s

Mean annual wind speed in the morning mixing layer

Mean summer wind speed in the morning mixing layer

Mean annual wind speed in the afternoon mixing layer

Mean summer wind speed in the afternoon mixing layer

The above data indicate that Baltimore has a significant tendency to excess oxidant formation during the summer months, although that tendency is not as great as in some other areas of the country. In the 5-year period starting August 1, 1960, there were 20 days of high meteorological potential for air pollution as defined by the National Weather Bureau. This compares to a high of 40 days in the Eastern half of the United States, and 70 in the Western half of the country. There were some parts of the country where there were no days of high pollution potential. The relatively high emission levels of carbon monoxide and hydrocarbons in the Baltimore area, particularly attributable to vehicular traffic, have aggravated the air quality problem, especially during those days of high meteorological potential for pollution.

In order to assist the air pollution control program for the region, an Environmental Meterological Support Unit (EMSU) is stationed in Washington, D.C. by the National Weather Service. The EMSU has the responsibility for forecasting high pollution potential days, or as they are now known, Air Stagnation Advisories for the Baltimore area. Since January 1970, significant air stagnation has been forecast on 72 days, or an average of 19 days per year. Of these 72 days, 36 days, or one half of the total, were in the months of June, July, and August when photochemical oxidants are most likely to be a problem. Actual records of air quality measurements in the region clearly show the high frequency with which standards are exceeded during the summer months.

Air quality and reduction. The State of Maryland, in its transportation control plan submission of June 15, 1973, included a maximum validated 8-hour average carbon monoxide reading of 21 ppm. After verifying with the Maryland Bureau of Air Quality Control that this level had occurred on two separate occasions (August 5 and 6, 1971), the Administrator determined it to be the Baltimore air quality level for this pollutant upon which the control strategy may be based. Similarly, a maximum validated 1-hour average photochemical oxidant reading of 0.21 ppm was verified to have occurred several times (on August 20, 1972) and, therefore is the Baltimore air quality level for this pollutant upon which the control strategy may be based.

According to the Maryland plan, total carbon monoxide emissions in the area defined in the Baltimore Metropolitan Area Transportation Study, known as the BMATS area, were 507,800 tons in 1972. (For a definition of this area, see "Transportation Controls to Reduce Motor Vehicle Emissions in Baltimore, Maryland," EPA Report APTD-1443, p II-27). Total daily peak-period emissions (6-9 am) of hydrocarbons in the BMATS area were 57.7 tons in 1972. Based on more accurate emission and deterioration factors for mobile sources, as presented in "An Interim Report on Motor Vehicle Emission Estimation," by D. S. Kircher and D. P. Armstrong, EPA calculations indicate baseline emission inventories of 592.737 tons per year and 61.0 tons per peak period, for carbon monoxide and hydrocarbons, respectively. The rationale for the use of the peak-period hydrocarbon emissions is presented at the end of this section of the preamble.

On the basis of the foregoing emission data baseline, the EPA calculates that a carbon monoxide emissions reduction of 337,860 tons from 592,737 tons in 1972 to 254,877 tons using the rollback technique, (See "Technical Support Document for the Transportation Control Plan for the Metropolitan Baltimore Intrastate Region," EPA, Region III) is necessary in the BMATS area to meet the national ambient air quality standard for that pollutant. Based on EPA calculations using 40 CFR Part

51, Appendix J, the peak period hydrocarbon emissions must be reduced by 70 percent of the 1972 emissions in the BMATS area from a level of 61.0 tons to a level of 18.3 tons. Since significantly greater emission reductions are required for hydrocarbons, the control measures proposed to attain the oxidant standard will be more than sufficient to attain the carbon monoxide standard.

Hydrocarbon emission concentrations during the 6-9 am period are related to peak oxidant readings in the afternoon, after mixing with nitrogen oxides in the presence of strong sunlight. Since emissions of hydrocarbons vary considerably during the day, the rush hours account for a disproportionate amount of emissions due to the significance of the contribution of motor vehicles. Hence, the hydrocarbon emission inventories and strategy effects were determined for this peak period. Justification for this rationale is provided by the fact that the conversion curve (40 CFR Part 51, Appendix J) establishes the relationship between peak 6 to 9 am hydrocarbon emissions and the maximum formation of oxidants. To ensure against reducing only peak period emissions and allowing emissions at other times, most of the strategies have the effect of reducing emissions throughout the day. The peak period was used to calculate the effectiveness of the strategy on the peak period emissions.

The stationary source controls which are presented in Table 2 reflect on-going state programs for control of stationary source emissions. These controls consist of: (1) Enforcement of current regulations, (2) adoption of stationary source rules limiting the construction of new sources of hydrocarbon emissions, (3) recovery of vapors from gas-handling, and (4) reductions in dry cleaning and other organic solvent losses.

State Transportation Control Plan

The State of Maryland Plan for the Metropolitan Baltimore Intrastate Region contained five basic strategies and one episode strategy. These were: (1) Federal Motor Vehicle Control Program (FMVCP), (2) additional stationary source controls, (3) the Periodic Motor Vehicle Inspection Program, (4) catalytic retrofit of heavy duty vehicles, (5) improved public transportation, and (6) vehicle use restrictions during predicted stagnations in the summer months. Except for the FMVCP, the strategies, as proposed by the Bureau of Air Quality Control, were evaluated in order to determine whether they were adequate to attain standards. (See 38 FR 16550, June 22, 1973, and "Evaluation Report for the State of Maryland (Metropolitan Baltimore.")

A brief summary of these strategies and their evaluation is given in the following paragraphs:

The stationary source controls include: (a) Gasoline handling emissions control, both on the station storage tanks and on the gasoline pumps, (b) dry cleaning solvents control and (c) emissions frozen at current levels.

The Maryland Plan included proposed regulations for the installation of vapor balance lines or equally effective vapor discharge control systems on all motor vehicle fuel loading systems. The plan states a 90 percent hydrocarbon emissions reduction will be achieved for all gasoline service station losses, although the proposed regulations (since adopted by Maryland) do not ensure that this reduction will, in fact, occur. Therefore, the Administrator considered it necessary to propose and to promulgate measures which require the installation of vapor recovery devices which are 90 percent effective, on both the loading facilities for service station storage tanks and at the gasoline pumps.

The Maryland Plan included a proposed regulation which would accelerate to May 31, 1973, the use of non-photochemically reactive hydrocarbons in dry cleaning operations. As stated in the Federal Register (38 FR 20769), the Administrator approves this concept and recognizes that Maryland is proceeding expeditiously to promulgate such a regulation in final form.

Also included in the Maryland Plan were two measures designed to prevent additional hydrocarbon emissions from major sources. The first element, would require the reduction of hydrocarbon emissions from all existing

stationary sources to a level equal to full control under current regulations and the subsequent maintenance of total emissions at that level.

The Maryland Plan also proposed to prohibit new major hydrocarbon sources from moving into the Region. Although no specific regulations had been adopted or proposed by Maryland for these measures, the Administrator had determined that emission reductions claimed were technically proper and that legal authority exists to impose the freeze. A regulation is being promulgated to assure its implementation.

Mobile source controls proposed by the State of Maryland included the Periodic Motor Vehicle Inspection (PMVI) program and the installation of catalytic retrofit devices on all heavy duty vehicles.

The PMVI program which was proposed included a dynamic (loaded) emissions inspection program for both light and heavy duty vehicles. The proposed program specifies a state-administered program with 87 inspection lanes (43 in the Metropolitan Baltimore Region), and requires the design of failure criteria such that a reduction of 12 percent hydrocarbon and 10 percent carbon monoxide emissions will result. However, since neither the legal authority nor a detailed description of the proposed regulations was submitted with the plan, the Administrator considered it necessary to propose and to promulgate a region-wide inspection/maintenance program.

The Maryland plan included a proposal for the retrofit of medium and heavy duty vehicles with 50 percent effective catalytic retrofits. Since no legal authority was demonstrated, nor regulations included; nor test data provided to confirm the proposed reductions; nor any intergovernmental arrangements with New York City which had initiated a similar program primarily directed towards control of carbon monoxide, whereas Maryland was primarily seeking a hydrocarbon control program; the Administrator was obliged to disapprove this proposed strategy. A regulation for catalytic retrofit of medium duty vehicles is promulgated herewith. EPA believes, as more fully described below, that catalytic retrofit of heavy duty vehicles is not feasible at this time. Accordingly, a different retrofit program for these vehicles is promulgated herewith.

The Maryland plan contained a transportation control package consisting of proposals for traffic flow improvements and VMT reduction measures. To facilitate traffic flow a TOPICS [1]-type program was proposed which calls for sophisticated signal controls, parking restrictions, lane widening, turn-lane additions and channelization projects. Since the projects included in this plan are expected to expedite traffic flow overall by about 10 percent, it is anticipated that emission reductions will result. The VMT reduction measures proposed included establishment of express bus-lanes, purchase of additional buses, and promotion of carpools. The plan claimed a 13 percent reduction in VMT for the transportation control package although it also stated that a 75 percent to 85 percent reduction in emissions attributable to a reduction in VMT would be needed to attain standards by 1977. In any event, the proposals were not accompanied by sufficient technical data, implementation schedules, and legal and regulatory authorities to ensure the claimed 13 percent reduction in VMT. Consequently, the Administrator considered it necessary to propose and promulgate bus lane, parking control, and carpool measures.

Finally, the Maryland plan proposed a program to restrict traffic during predicted high air pollution periods. No specific emission reductions were claimed for this measure; however, Maryland invited Federal participation in the development of such a program. Since the EPA does not know of any prediction system of demonstrated reliability in accurately forecasting all high air pollution periods, the Administrator was and remains unable to accept this strategy as a viable emission control program.

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[1] Traffic Operations Program to Improve Capacity and Safety.

ORIGINAL EPA PROPOSAL

In addition to the emissions reductions of the Federal Motor Vehicle Control Program, the EPA proposed, in the FEDERAL REGISTER of August 2, 1973 (38 FR 20769), the following measures to reduce carbon monoxide and hydrocarbon emissions: (1) Gasoline handling vapor recovery (modification of measure in Maryland's Transportation Control Plan); (2) inspection and maintenance (Modification of measure in Maryland's Transportation Control Plan); (3) mass transit improvements (included in Maryland's Transportation Control Plan) which were supplemented by specific regulations for (a) bus/carpool matching system, (b) management of parking supply, (c) limitation of public parking, and (d) preferential bus/carpool treatment; (4) vacuum spark advance disconnect (VSAD) of pre-1968 light duty vehicles; (5) oxidizing catalyst retrofit of certain light duty vehicles of model years 1968 through 1975; and (6) gasoline distribution limitations. The measures, as proposed would have provided for an attainment date of May 31, 1977. In addition, emission reduction credit was given to Maryland's proposed stationary source rule strengthening measure.

FINAL EPA PROMULGATION

The Environmental Protection Agency herewith promulgates regulations designed to correct specific deficiencies in the Maryland plan. The original EPA proposals have been modified to reflect testimony at the public hearings, written comments and other new technical information available to the Administrator, and to also reflect additional technical information provided by the Maryland Department of Transportation, the Baltimore City Department of Planning, and the Mass Transit Administration (MTD).

In the FEDERAL REGISTER of August 2, 1973 (38 FR 20769), the Administrator stated that the EPA would be evaluating a submission by the State of Maryland on June 28, 1973, concerning measures to reduce hydrocarbon emissions through vapor recovery during service station (Stage 1) and automobile tank (Stage 2) refueling operations. On July 20, 1973, Maryland forwarded proposed regulations for these measures, and subsequently adopted regulations on October 3, 1973 to be effective on December 2, 1973. The adoption by the State of Maryland of such regulations, their general content, and a number of steps which Maryland has taken to obtain approvable vapor collection systems has clearly demonstrated to the Administrator that Maryland is moving forward in this field. The Administrator is also aware that Maryland intends to approve systems whose collection efficiency is equal to or greater than 90 percent when such systems are demonstrated to be safe, reliable, and available. However, since the currently adopted regulations do not make a specific commitment for a 90 percent collection efficiency, the Administrator is promulgating regulations for vapor recovery which are similar to those which had been proposed on August 2, 1973. Comments which were received on these measures generally supported them in principle but raised questions concerning the availability of control systems by May 31, 1977, applicability to small service stations, and technical details. The requirements which are not being promulgated reflect modifications of the proposed regulations as follows: (a) More design flexibility is permitted to ensure vapor tight connections between delivery vessels and storage containers, (b) provisions have been added to ensure compatibility between systems used for Stages 1 and 2 fueling operations, (c) exceptions have been included for certain small size facilities, and (d) the compliance requirements have been redefined and the final compliance dates have been extended to March 1, 1976 for Stage 1 control systems and to May 31, 1977 for Stage 2 control systems. The EPA estimates that the total annual cost to each vehicle owner for the Stages 1 and 2 vapor control program will be $3.20 on the assumption that all the costs of control are reflected in the gasoline prices.

The State of Maryland has recently adopted (October 3, 1973) a regulation to achieve 100 percent reduction

in oxidant related hydrocarbon emissions from solvent used in drycleaning operations by requiring a total switch to non-photochemically reactive solvents in such operations by May 31, 1974. This regulation, as of its effective date, will be legally binding in the State of Maryland. However, since EPA cannot formally approve an adopted regulation until it has taken public comment thereon, in addition to the comments at the State public hearing, and since the adopted regulation on drycleaning solvents was not submitted to EPA in time to permit approval by the date of this promulgation, a standard EPA regulation, already promulgated for the Maryland portion of the National Capital Interstate AQCR, requiring at least 85 percent control of oxidant related emissions from drycleaning operations is promulgated today. Subject drycleaning operations are cautioned to take notice of the Maryland regulation requiring 100 percent control, and not to rely on the requirement for only 85 percent control promulgated today. The effect of the 100 percent control program, as compared to the 85 percent control program, will be to further increase the value of hydrocarbon emission reduction from 0.39 ton per peak period. EPA anticipates that this regulation will be rescinded when and if the necessary steps for approval of the Maryland regulation are taken.

The Maryland Plan included a control measure which would limit hydrocarbon emissions from all users of photochemically reactive materials to the fully controlled levels under existing regulations. Since this measure would not only result in an appreciable reduction in hydrocarbon emissions by 1977, but would also contribute substantially to the post-1977 maintenance of standards, the Administrator is promulgating a regulation herewith to assure its implementation.

The inspection and maintenance regulation promulgated is similar to the regulation which was proposed in the FEDERAL REGISTER of August 2, 1973 (38 FR 20769). It differs from the proposal in that it requires inspection and maintenance procedures be applied to medium (6000 to 10,000 lbs. gross vehicle weight, GVW) and heavy

(over 10,000 lbs. GVW) duty vehicles as well as light duty vehicles (under 6000 lbs. GVW). Inspection and maintenance of medium and heavy duty vehicles were not included in the proposal. However, since then, as discussed below, EPA has determined that certain retrofits on these vehicles are feasible, and an inspection and maintenance program is accordingly being promulgated to make sure these regulations achieve their purpose. The "loaded test" inspection and maintenance measure is also very similar to the program proposed by the State of Maryland in its transportation control addendum of June 28, 1973, but also calls for retest of failed vehicles following maintenance—a deficiency of the Maryland proposal. The Administrator, in promulgating this regulation, requires that quick action to implement the program be taken in order that the first annual inspection cycle can be completed by July 31, 1976. In comments and correspondence received by the EPA, the adoption of an inspection and maintenance program received virtually unanimous support. Based on fleet studies of light duty vehicles, the additional annual average cost for light duty vehicles is estimated to be $3 for the vehicle inspection, and $20 to $30 maintenance costs for those failing the inspection.

Because the Maryland plan lacks specific assurances of emission reductions attributable to the claimed 13 percent VMT reductions from improvements to public transportation, regulations are promulgated to strengthen and augment the Maryland plan. The Maryland plan to increase bus fleet size is approved subject to the requirement that a compliance schedule be submitted, definitely committing the State to the increases in fleet size set forth in the State plan.

In addition, the following regulations, which were, in substance, included in the August 2, 1973, notice of proposed rulemaking (38 FR 20769) are promulgated herewith in order to assure implementation of the measures proposed by the State of Maryland:

Establishment of exclusive bus/carpool lanes along major corridors which already have express bus service,

from the following outlying communities and/or residential areas to the CBD, by January 1, 1976: Halethorpe, Baynesville, Pikesville, Towson, Catonsville, Dundalk, Overlea-Parkville, Randallstown, Middle River-Essex, and the Mount Washington and Hunting Ridge Sections of Baltimore. In addition, exclusive lanes are required to be established from Linthicum to the CBD and from the CBD to Sparrows Point. The predicted benefit from all of the above exclusive bus/carpool lanes is a 3.1 percent reduction in commuter VMT. It is noted that taxis with two or more passengers can be regarded as carpools and will hence be qualified to make use of the exclusive bus/carpool lanes as defined above.

(The Administrator commends the City of Baltimore and the Mass Transit Authority for the well-developed 5.4 mile network of exclusive bus lanes in the Baltimore CBD accompanied by enforcement of parking restrictions. Since these exclusive lanes have been in operation since 1971, no additional regulations are included in this promulgation to assure express service in the downtown area.)

Restriction of on-street parking along all streets in the above-named corridors which contain dedicated bus/carpool lanes by May 1, 1975. This measure which is being promulgated corresponds with existing on-street parking regulations which the Administrator has been informed are receiving excellent compliance and enforcement by the City of Baltimore. Promulgation of the bus/carpool and parking restriction regulations is consistent with many comments which the EPA received in support of early improvements to mass transit.

Carpool Locator System. This measure, which was proposed by both the State of Maryland and EPA, requires the institution by an appropriate governmental agency of a computerized system by June 1, 1975, for matching potential carpool participants whose origin, destination, and commuting schedules are compatible. This system is to be made available to the maximum possible number of commuters. Such a measure is necessary if the restraints on individual vehicle use contained in this plan

are to have the desired effect of reducing VMT. The Administrator is aware of a commuter-computer program that has been instituted by radio station WFBR and television channel WJZ-TV, and the detailed plans for a city-wide program by the City of Baltimore Department of Planning. He commends these organizations for these progressive steps to stimulate carpooling, which, if expanded, may well be able to satisfy the regulation's requirements. This measure also received considerable public support in comments received by the EPA.

A detailed guide for the operation of a bus/carpool matching program, along with a discussion of a number of successful programs in operation in many areas of the country, are contained in "Carpool and Buspool Matching Guide" (Second Edition, U.S. Department of Transportation, Federal Highway Administration, May 1973). This report discusses the considerations involved in a successful program such as public information, incentives, data processing, and a continuous updating of the service, and is an excellent guide and reference for conducting such a program.

The EPA believes that this approach to reducing vehicle miles traveled is a very good short-term strategy. It involves a minimum investment.

Management of parking supply. This regulation, which was included in the EPA proposal, requires the preconstruction review of new parking facilities in pollution-impacted areas and will enhance the effectiveness of the City of Baltimore programs for increased mass transit patronage. The regulation herewith promulgated requires the obtaining of a permit before commencing the construction of any facility of 250 or more spaces. A permit will only be granted after it is determined that the parking facility will not have an effect inconsistent with a plan's VMT reduction goals or cause a violation of any ambient air quality standard. Facilities of 50 or more spaces may be reviewed if the Administrator determines that they will have a significant impact on the control strategy in a given area. This regulation applies to all construction commenced after August 15, 1973 unless

contract for on-site construction work was signed prior to that date.

This regulation establishes review procedures similar to those which the EPA is proposing for Indirect Sources as discussed in the FEDERAL REGISTER of October 30, 1973 (38 FR 29893). In the case of sources which would otherwise be subject to review both under this plan and under a finally-promulgated indirect Sources regulation, a single review procedure will be established.

Additional vehicle restraints and VMT reduction measures are included in the final regulations that were not among the proposed regulations. As indicated in the FEDERAL REGISTER of August 2, 1973 (38 FR 20769), the Administrator has been continuing to study additional reasonably available measures that will result in reduction of vehicle miles traveled by automobiles. The Act requires that all control measures that are reasonably available must be applied before an extension may be granted. EPA is under a court order to promulgate a plan that meets this test without further delay. Accordingly additional measures that have come to the attention of the Administrator and that are reasonably available in the effected areas are included in this promulgation. These are identified in the following subparagraphs. Although the regulations promulgated herewith are intended to be fully enforceable as promulgated, public comments on these measures is invited, and EPA is prepared to revise the plan in any manner which such comments indicate would be advisable.

Employer parking policy. This regulation provides for a bus and carpool incentive and promotion program that will initially require by February 1, 1974, all private and public employers providing 700 or more employee parking spaces in one location within the region to submit a plan to provide incentives to those employees that will encourage them either to ride to work in carpools or to ride the bus or streetcar. By February 1, 1975, plans will be required from employers with 70 or more employee spaces in one location. Possible elements of these plans are: subsidies to employees using mass transit,

reduced parking spaces or surcharges for those driving alone, charter buses (bus-pool), and preferential parking for carpools.

Bikeway network. This measure requires the State of Maryland to complete a study by March 1, 1975, of the best locations and designs for bikeway routes and bikeway parking facilities for commuters into the Baltimore CBD. The study is to be made with a view toward safety and security, and is to make recommendations for "rules of the road" for bicyclists. Upon conclusion of the study, the State of Maryland and such local jurisdictions as the State requests to participate, are required to establish at least a 15-mile bicycle network oriented to the Baltimore CBD by May 31, 1976, unless it is demonstrated to the Administrator's satisfaction that the maximum practicable network is a lesser amount. The Administrator commends the Maryland Department of Transportation and the City of Baltimore Department of Planning for their on-going bikeway programs, several elements of which are already in the construction phase.

Since the Clean Air Act of 1970 requires that all reasonably available measures be implemented as expeditiously as practicable, the Administrator also proposed, on August 2, 1973 (38 FR 20769), the implementation of several retrofit measures which will result in substantial reductions of hydrocarbon and carbon monoxide emissions. Catalytic retrofit devices, which are necessary to provide the maximum emission reductions (albeit insufficient to assure attainment of the national ambient air quality standards), will not be available until late 1976. However, the dictates of the Clean Air Act require that all feasible alternative measures be implemented as expeditiously as practicable. Hence, the Administrator proposed on August 2, 1973 (38 FR 20769), and is promulgating herewith, the installation, by January 1, 1976, of vacuum spark advance disconnect (VSAD) devices on all pre-1968 light duty vehicles. Although substantial adverse testimony was presented at the public hearings to indicate the socially regressive nature of these devices, citing that the financial burden will fall on those least

able to pay, the Administrator has concluded that installation of this relatively inexpensive device is necessary to comply with the terms of the Clean Air Act and will not impose an excessive financial burden on the owners of pre-1968 automobiles. As noted in the General Preamble, the VSAD costs only $20 and provides reductions of 25 percent for hydrocarbons and 9 percent for carbon monoxide. The Administrator is herewith promulgating a measure whose regulatory language merely requires the installation of a retrofit device which will achieve at least the above-stated reduction of hydrocarbons and carbon monoxide. By so doing, the State of Maryland is provided the option of establishing a single carburetion-type retrofit device for all pre-1968 vehicles and appropriate 1968-1971 model year vehicles, although probably at a cost higher than the VSAD device.

Installation of the catalytic retrofit devices on 1968-1975 model year light duty vehicles capable of performing properly on unleaded 91 Research Octane Number (RON) gasoline was proposed in the August 2, 1973 issue of the FEDERAL REGISTER (38 FR 20769). This measure is promulgated herewith only for the 1971-1975 model year light duty vehicles since only 20 percent of the pre-1971 light duty vehicles can perform properly on the unleaded 91 RON gasoline which will be available. Post-1975 cars will be equipped with catalytic devices by the manufacturer. Despite the substantial adverse testimony which was presented at the public hearings, the Administrator has included regulations herewith which require the installation of these devices on all applicable vehicles of the 1971-1975 model years in order to comply with the requirements of the Clean Air Act. Emission reductions of 50 percent for hydrocarbons and 50 percent for carbonmonoxide are expected to result from implementation of this measure. As noted in the General Preamble, the proportion of light duty vehicles to which catalytic systems are applicable is 75 percent of 1971-1974 model year vehicles.

Since the measures proposed in the August 2, 1973 notice of proposed rulemaking (38 FR 20769) were in-

sufficient to assure attainment of the national ambient air quality standards, the Administrator is promulgating additional retrofit measures which have been determined to be feasible since the time of the former proposal. These additional measures include: (1) Retrofit with air/fuel control devices of light duty vehicles of 1968-1971 model years which are not required to be retrofitted with an oxidizing catalyst; (2) catalytic retrofit of all medium duty vehicles (6,000 to 10,000 lbs. gross vehicle weight) which are capable of performing properly with 91 RON gasoline; (3) retrofit of medium duty vehicles, which are not required to be retrofitted with an oxidizing catalyst, with air/fuel retrofit devices; and (4) retrofit of all heavy duty vehicles (gross vehicle weight greater than 10,000 lbs.) with carburetor modifications or alternative air/fuel control devices.

Retrofit with an air/fuel control device of 1968-1971 model year light-duty vehicles which are not required to be retrofitted with an oxidizing catalyst will result in a 25 percent reduction in hydrocarbon emissions and a 40 percent reduction in carbon monoxide emissions for each vehicle. Although final evaluation by the EPA awaits the completion of a test program scheduled to be completed by November, 1974, preliminary tests by several manufacturers indicates no degradation of engine performance after 25,000 miles of operation.

A regulation is included in this promulgation which will require the installation of oxidizing catalyst devices on all 1971-1975 model year medium duty vehicles which are capable of performing properly with unleaded 91 RON gasoline. EPA analysis of limited available technical data indicates potential reductions of 50 percent of hydrocarbon emissions and 50 percent of carbon monoxide emissions. Since the operating characteristics of medium duty vehicle engines are essentially the same as those of light duty vehicles, no appreciable degradation in performance is expected to result from the installation of these devices.

For those pre-1974 medium duty vehicles which are not required to be retrofitted with an oxidizing catalyst,

a regulation is included which will require the installation of an air/fuel device, which will provide a leaner air-fuel mixture and will result in emissions reductions of 15 percent for hydrocarbons and 30 percent for carbon monoxide. Since the leaner mixture produces more complete combustion, test data indicate a net fuel saving of 4 percent.

The substantial emissions generated by heavy duty vehicles (gross vehicle weight greater than 10,000 lb.) suggest that appreciable reductions could result from the installation of appropriate control devices on this class of vehicles as originally proposed by the State of Maryland. Since current tests by the EPA indicate the incidence of deleterious high temperature effects on exhaust systems and catalytic devices when catalytic converters are installed on heavy duty vehicles, the Administrator is promulgating herewith a regulation which requires the installation of carburetor modifications or air/fuel retrofit devices on all heavy duty vehicles by May 31, 1977. Results of recent tests conducted as part of an evaluation program sponsored jointly by the EPA and the City of New York indicate potential reductions of 30 percent of hydrocarbon emissions and 40 percent of carbon monoxide emissions.

A regulation is included in this promulgation that would require State and/or local authorities to monitor VMT, vehicle speeds, and per-vehicle emission reductions, and to report such data to the Administrator on a quarterly basis.

Finally, even with the timely implementation of the aforementioned measures (See Table 1), it is estimated that the national standards for photochemical oxidants and carbon monoxide will not be met in the Metropolitan Baltimore Intrastate Region by May 31, 1977. Under the requirements of the Clean Air Act, the EPA has no choice but to include in the plan any such measure that can achieve the standards by that date. Therefore, the Administrator is promulgating a regulation limiting gasoline sales (rationing) to the extent necessary to achieve the standards by the May 31, 1977 date. However, the EPA does not believe that such massive gasoline rationing, assuming adequate supplies are available, is either socially acceptable or enforceable, and will utilize every means available to avoid the need to impose gasoline rationing to reach air quality goals by 1977.

SUMMARY

Comparison of the strategies proposed by Maryland on June 15, 1973, and by the EPA on August 2, 1973 (38 FR 20769) with the strategies promulgated herewith is presented in Table 1. Base year emissions and the effects of the promulgated measures are presented in Table 2.

TABLE 1. EPA TRANSPORTATION CONTROL PLAN

Maryland plan	EPA proposal	EPA promulgation
STATIONARY SOURCE CONTROLS		
Service station tank vapor recovery.	Service station tank vapor recovery.	Service station tank vapor recovery.
Service station pump vapor recovery.	Service station pump vapor recovery.	Service station pump vapor recovery.
Control of dry cleaning losses.	Control of dry cleaning losses.	Control of dry cleaning losses.
Limitations of major source emissions.	Control of organic solvents.	Limitation of major source emissions.
Prohibition of new major sources.		
MOBILE SOURCE CONTROLS		
Inspection-maintenance.	Inspection-maintenance.	Inspection-maintenance.
HDV catalytic retrofit.		HDV air-fuel control retrofit.
	VSAD retrofit, pre-68 LDV.	VSAD retrofit, pre-68 LDV.
	LDV catalytic retrofit.	LDV catalytic retrofit.
		LDV air-fuel control retrofit.
		MDV catalytic retrofit.
		MDV air-fuel control retrofit.
VMT CONTROLS		
Transit service improvements.		Carpool locator.
Carpool locator.	Exclusive buslanes.	Exclusive busways.
Express busways.	Limitation of onstreet parking.	Limitation of onstreet parking.
Traffic flow improvements.		Traffic flow improvements.
Episode vehicle exclusion.		Management of parking supply.
		Employer's parking policy.
		Study and establishment of bikeways.
	Gasoline distribution limitation.	Gasoline distribution limitation.

TABLE 2.—COMPILATION OF CONTROL STRATEGY EFFECTS FOR THE METROPOLITAN BALTIMORE INTRASTATE AIR QUALITY CONTROL REGION ON MAY 31, 1977

	Carbon monoxide		Hydrocarbons	
	Tons per year	Percent of base year	Tons per peak period	Percent of base year
1972 ton per year (base year)	592,737	100.0	61.0	100.0
Reduction required to reach NAAQS	337,860	57.0	42.7	70.0
STATIONARY SOURCES				
Emissions without control strategy	103,300	17.4	13.5	22.1
Expected reduction from existing regulations:				
(a) Solvent control			0.85	1.4
(b) Gasoline handling vapor recovery (bulk)			1.0	1.6
(c) Dry cleaning emissions control			0.39	0.6
(d) Aircraft ground operations			—0.18	—0.3
(e) Net result of industrial growth	—5,575	—0.9	—0.17	—0.3
Promulgated stationary source controls:				
(a) Control and prohibition of major sources			0.52	0.9
(b) Gasoline handling vapor recovery (stage I)			0.57	0.9
(c) Gasoline handling vapor recovery (stage II)			0.95	1.6
Stationary source emissions remaining	108,875	18.4	9.57	15.7
MOBILE SOURCES				
Emissions from LDV's, MDV's, and HDV's without control strategy	489,437	82.6	47.5	77.9
Expected reductions:				
(a) Federal motor vehicle control program *	156,437	26.4	18.7	30.7
(b) Inspection and maintenance (LDV, MDV)	23,710	4.0	2.23	3.7
(c) VSAD retrofit, pre-1968 LDV's	1,656	0.3	0.29	0.5
(d) Air-fuel retrofit, 1968-1971 LDV's	26,491	4.5	0.80	1.3
(e) Catalytic retrofit, 1971-1975 LDV, MDV	58,681	9.9	3.38	5.5
(f) Air-fuel retrofit, pre-1974 MDV's	2,916	0.5	0.22	0.4
(g) Air-fuel retrofit, HDV's	26,512	4.5	1.38	2.3
(h) Traffic flow improvements	3,065	0.5	2.61	4.3
(i) VMT measures: Exclusive buslanes, carpool locator, bikeway program, parking restrictions	2,734	0.5	0.43	0.7
(j) Gasoline distribution limitation	78,381	13.2	8.73	14.3
Mobile source emissions remaining	108,854	18.4	8.73	14.3
Total reductions	375,008	63.3	42.7	70.0
Total emissions remaining	217,729	36.7	18.3	30.0
Total allowable emissions	254,877	43.0	18.3	30.0

* Includes effect of VMT growth.

FINDINGS

The Clean Air Act requires that national ambient air quality standards be attained as expeditiously as practicable. However, several of the control measures relied on in this plan will not be available until after 1975. Even if the need to promulgate a gasoline rationing program were discounted, the EPA has determined that a 2-year extension till May 31, 1977 is required for implementation of the measures for the catalytic converter retrofit of heavy duty vehicles, and systems for the control of vapor losses in transferring gasoline to automotive fuel tanks.

In the FEDERAL REGISTER of August 2, 1973, comments were solicited concerning controls from other stationary sources. The responses received indicated that if additional controls were imposed on some small sources the benefits would be negligible. Consequently, the Administrator believes, for purposes of this transportation control plan, that the current state regulations, including recent amendments covering volatility of surface coatings, are adequate, and for all practical purposes are equivalent to those currently adopted by the County of Los Angeles Air Pollution Control District as Rule 66.

The FEDERAL REGISTER of August 2, 1973 also proposed a regulation which would limit gasoline distribution starting July 1, 1974 to the total gallonage of the base year (July 1, 1972 to June 30, 1973) and starting May 31, 1977 to the amount which, when combusted, will not result in exceeding air quality standards. As discussed in the General Preamble, the Administrator has determined that limitations on gasoline sales are not a reasonably available measure.

VMT REDUCTIONS

In calculating the emissions reductions necessary to attain and maintain national standards for carbon monoxide and photochemical oxidants in the Metropolitan Baltimore Intrastate Region, the EPA has assumed, on the basis of "A Methodology for Estimating Macro-Level Travel Demand in the Baltimore Metropolitan Area," Alan M. Vorhees and Associates, February 1973, a 3 percent growth in VMT by 1977 due to new highway construction and modification of existing highways. This

estimate does not include the effect of the presently planned 3-A Highway System which essentially would not be built until after May 31, 1977, the latest date for attainment of standards. Any increase of emissions resulting from such a growth would be inconsistent with the need to reduce VMT to attain and maintain air quality standards.

However, the exact effect of highway construction and modification programs can not be accurately predicted. It is entirely possible that a highway project would reduce total VMT in the area impacted by its construction; or that it would increase the VMT, but by relieving congested alternate routes, reduce total emissions; or, on the other hand, it would serve to generate new VMT by fostering development that could be incidental to its prime purpose.

Thus, the Administrator in considering this dilemma is faced with three alternatives: (a) Promulgation of a regulation which in effect would declare a moratorium on further highway construction, (b) promulgation of a regulation requiring a review and approval by the EPA (or designee) prior to the construction or modification of a highway, and (c) utilize currently developed land-use planning procedures involving "indirect sources", environmental impact statements and section 136(b) of the Federal Aid Highway Act of 1970 (23 U.S.C. 109(j)). Testimony was received suggesting a highway construction moratorium be declared by Maryland, et al.

A blanket moratorium would be an irresponsible act if highway projects that could lead to reduced emissions were included. A special regulation which requires prior review and approval of all projects opens environmental concerns to fragmentation and additional technical complexities that would compound the bureaucratic superstructure, and still not be responsive to long-term growth considerations. Therefore, the Administrator is of the opinion that the intelligent use of current procedures offers the best prospect to control VMT and reduce emissions, especially hydrocarbons, which contribute to the excessive levels of photochemical oxidants in the Metro-

politan Baltimore Intrastate Region. These procedures are discussed in the following paragraphs. Regulations that require land-use planning tied to air quality considerations were recently proposed by the EPA in response to a court order (38 FR 20893, October 30, 1973). These "indirect source" regulations will require the review, both long-term and short-term, of certain classes of new construction to ensure maintenance of air quality standards. The State of Maryland is currently proposing such review procedures, in place of those which the Administrator was obliged to propose earlier pursuant to the court order. These regulations will require the review for effect on air quaity of all new large parking facilities, highways, aiports, housing developments, and other development and/or construction that may increase automobile emissions because of increased vehicular travel.

The EPA believes that the review of indirect sources should be at the State and local level and any EPA regulations promulgated will be enforceable by the State at its option. In addition, when and if Maryland submits approvable indirect source regulations of its own, the EPA will rescind any duplicating EPA regulations.

As previously stated, a number of comments were received on the continued construction of highways, and some urge a moratorium on new construction. Such a prohibition, to the extent required by air quality considerations, is already imposed by Federal statute. Section 136(b) of the Federal Aid Highway Act of 1970 (23 U.S.C. 109(j)) requires that any new Federally aided highways be consistent with applicable implementation plans under the Clean Air Act. Accordingly, any new highways that would interfere with the VMT reduction goals of the Baltimore plan, or interfere with the attainment and maintenance of national ambient air quality standards would not be consistent with the requirements of the plan.

The EPA also reviews and comments on new highway aid projects as part of its review of environmental impact statements under the National Environmental Policy

Act (NEPA), (42 U.S.C. 4321-4347). One such statement for the planned 3-A Highway System in the Metropolitan Baltimore Intrastate Region is currently in preparation. If calculations show an increase in emissions attributable to VMT growth, then the system could be considered to interfere with the attainment and maintenance of air quality standards, and modifications would have to be made to its design.

If such a situation were to materialize for the 3-A Highway System, or indeed any other Federally aided highway construction program, then the EPA envisages other possibilities. Two such possibilities are: (1) The withdrawal of segments of an interstate highway under provisions of section 137 of the Federal Aid Highway Act and the use of the equivalent Federal funds for non-highway public mass-transit projects, and (2) the dedication of such highways, or portions thereof, for the use of express buses and/or carpools that would, in effect, accelerate region-wide mass transit.

Future Initiatives

There have been a number of discussions with the Maryland Bureau of Air Quality Control concerning the hydrocarbon emission inventory baseline upon which control measures proposed by the State or promulgated by the EPA have been developed. It has been suggested that the method to predict oxidant reductions should employ a reactive hydrocarbon-oxidant relationship. Unfortunately, there are presently no data available for the Metropolitan Baltimore Intrastate Region, that would permit the development of such a relationship, nor is it certain how this would affect the reductions needed. There is, however, evolving information on reactivities of various organic compounds known to be part of the Baltimore area's emission inventory—including those from mobile sources.

This matter is under continuing review by the EPA.

The adequacy and correctness of this promulgation to ensure attainment of oxidant standards by May 31, 1977, will be indicated by reduced levels of oxidant measurements with the passage of time. There have been reported in August 1973, higher levels of oxidants than that upon which the rollback calculations were based (0.21 ppm). Initial information available to the EPA indicates that these readings were validated at lower values (approximately 0.20 ppm), after appropriate corrections were made. Nevertheless, the Administrator wishes to emphasize the importance of a careful review by the State of Maryland of all current data so that any determination of needed revisions to this promulgation may be made as soon as possible.

Mass Transit and Socio-Economic Impact

Improved and expanded mass transit facilities in the Baltmore Metropolitan area are a necessary corollary to the proposed disincentives and restraints on the personal use of automobiles. The emphasis must be a large-scale expansion of a limited public transportation system for both CBD and suburban commuters and shoppers. For the short-term, the best possibility of achieving the required transit expansion is by increasing the capacity of radial and circumferential bus routes. However, the amenities and convenient utility of all public transportation systems must be considerably improved to ensure attraction and retention of commuter ridership. As previously indicated emissions related to VMT in the Metropolitan Baltimore Intrastate Air Quality Control Region must be considerably reduced if air quality standards are to be attained by May 31, 1977 without the imposition of gasoline rationing. Information in "24-Hour Work Transit and Work Auto Driver Trips (Compressed)" and "1980 Baltimore Regional Socio-Economic Data," shows very high levels of commuting trips between various suburban residential areas and employment centers, and between which little public transportation either exists or is used. Indeed, calculations by the EPA for interconnection of these areas which were performed in a manner similar to those which predicted a 3.1 percent VMT reduction attributable to the promulgated bus/carpool lanes to the Baltimore CBD, show a

potential for an additional 4.7 percent VMT reduction. Estimates also show that approximately 1,000 additional buses, beyond the 375 presently planned, would be needed to accomplish such results, assuming one bus trip per rush hour. The Administrator therefore strongly encourages the State of Maryland to develop plans to fulfill suburban area mass transit needs.

The Administrator, therefore, will provide all possible support to Federal, State, and local agencies, and to private groups in their efforts to expand the mass transit facilities by May 31, 1977.

The problem in Baltimore is somewhat formidable since there is only a minimal commuter rail system. Comments received by the EPA indicate a real potential whose practicality should be actively explored.

Within the Metropolitan Baltimore Intrastate Region the upgrading of bus services, which can be accomplished in a relatively short time, should permit the absorption of a considerable portion of the automobile travel displaced by the strategies promulgated herein.

In addition, private automobiles, which are designed to carry four to six persons and currently carry an average of 1.2 commuters per trip in the Baltimore area, represent the largest unused pool of transportation capacity now available.

Although the impact of VMT reductions on aspects of human welfare other than air quality is difficult to assess precisely, these measures may create some inconvenience in the short run. Persons accustomed to driving downtown at their own conveience in the assurance of fiding a parking space while they shop, or persons accustomed to commuting to and from work at times to some extent of their own choosing, will have to modify their previous habits. Some shorter trips will be shifted from automobiles to other forms of transportation such as bicycles or walking.

There may be significant positive aspects associated with these measures. Many experts believe that the sprawling development patterns fostered by widespread automobile use are unduly wasteful of energy, land, and

other resources, and have contributed to the decay of urban centers. More widespread use of other modes of transportation will be necessary if these tendencies are to be corrected. The vapor control measures at service stations will result in a saving of fuel while adding less than one cent per gallon to the cost.

Reference has already been made to cost estimates for the inspection and maintenance and retrofit programs being promulgated.

Other Public Comments

At the EPA hearing, a number of persons expressed the opinion that the standards for photochemical oxidants and carbon monoxide, upon which the development of the transportation control plan is based, were subject to debate and perhaps were set at limits below those which would be appropriate. Some comments also called for an extension of the date for attainment of standards beyond 1977 and that strategies to attain standards be developed from a more extensive air quality data base. There was encouragement for review and possible revisions to the standards. Such a review is now being conducted by the National Academy of Sciences.

Also presented at the hearing were a number of statements concerning the potential for expanding the virtually non-existent commuter rail system by using existing freight trackage and defunct rail rights-of-way. Testimony was presented which showed the Baltimore area to be laced with such lines. Many of the communities linked by these rights-of-way correspond with known commuting corridors. In "Commuter Rail Service Proposals for the Baltimore Metropolitan Area," by Harry W. Miller, an initial ridership potention [sic] of over 5,700 seats was indicated. On the basis of this figure, EPA estimates that full use of that capacity could translate into a commuting VMT reduction of about 1.5 percent. This assumes that the rail lines would complement present or potential bus routes and not compete for the same ridership. In addition, statements were presented concerning the possibility of extending the use of light-rail

(streetcar) transportation along surface corridors including the aforemetnioned rail rights-of-way. The opinion was expressed that such routes could be activated in a 2 to 3 year period as compared to the planned subway system (Metro) which will not be a transportation factor until the 1980's. While it is generally recognized that the EPA does not have regulatory authority to mandate rail systems, the testimony would support a strong recommendation by the Administrator that the State of Maryland and all appropriate agencies expedite every consideration of rail alternatives. This recommendation is particularly timely in light of growing fuel shortages that are expected to be felt well in advance of an overt gasoline rationing program that is being promulgated as a contingency measure in 1977.

EPA Studies and Guidelines

Further information on transportation control, land use, and motor vehicle emissions may be obtained from one or more of the following documents which the Environmental Protection Agency has in its possession or has published:

(a) "Prediction of the Effects of Transportation Controls on Air Quality in Major Metropolitan Areas" and "Evaluating Controls to Reduce Motor Vehicle Emissions in Major Metropolitan Areas" November 1972.

(b) "Transporation Controls to Reduce Motor Vehicle Emissions in Major Metropolitan Areas" December 1972. This document is a summary of a study of 14 cities conducted with the view of recommending specific transportation control strategies. (Separate reports for each of the 14 cities are also available.)

NOTE: The documents listed in (a) and (b) above are available from the Air Pollution Technical Information Center, EPA, Research Triangle Park, North Carolina 27711.

(c) "Control Strategies for In-Use Vehicles" November 1972. This report is available from EPA, Mobile

Source Pollution Control Programs, 401 M Street, SW., Washington, D.C. 20460.

(d) "Transportation Control Measures" FEDERAL REGISTER (38 FR 15194) June 8, 1973.

(e) "Technical Support Document for the Transportation Control Plan for the Metropolitan Baltimore Intrastate Region", EPA Region III.

(f) "Aircraft Emissions" Impact on Air Quality and Feasibility of Control", U.S. Environmental Protection Agency.

(g) "Facilities and Services Needed to Support Bicycle Commuting into Center City Philadelphia", Philadelphia Bicycle Coalition, June 1973.

(h) "Evaluation Report for the State of Maryland (Metropolitan Baltimore)".

(i) "Transportation Controls to Reduce Motor Vehicle Emissions in Baltimore, Maryland" APTD-1443 (December 1972), available from EPA, Office of Air and Water Programs, Research Triangle Park, North Carolina 27711.

(j) Carpool and Buspool Matching Guide (Second Edition) May 1973, available from the U.S. Department of Transportation, Federal Highway Administration.

(k) "A Methodology for Estimating Macro-Level Travel Demand in the Baltimore Metropolitan Area", A. M. Voorhees & Associates, Inc., February 1973.

(l) "Commuter Rail Service Proposals for the Baltimore Metropolitan Area", by Harry W. Miller, Rail Ways of the Americas, Inc., September 5, 1973.

(m) "Proposed Commuter Rail Improvement Program", Maryland Department of Transportation, May 1972.

(n) "Bikeways Progress Report", Harry R. Hughes, August 31, 1973.

(o) "Summary of MTA Express Service—Regular Routes", R. E. Prangley, September 4, 1973.

(p) "24-Hour Work Transit and Work Auto Driver Trips Compressed" (Computer Printout), Maryland Department of Transportation, November 21, 1973.

(q) "1980 Baltimore Regional Socio-Economic Data" (Computer Printout), Maryland Department of Transportation, July 19, 1973.

(r) "An Interim Report on Motor Vehicle Emission Estimation", U.S. Environmental Protection Agency, May 1973.

(s) "Mixing Heights, Wind Speeds, and Potential for Urban Air Pollution Throughout the Contiguous United States", U.S. Environmental Protection Agency (1971).

All documents (except (p) and (q)) listed above are available for inspection at the Freedom of Information Center, U.S. Environmental Protection Agency, Room W232, 401 M Street SW., Washington, D.C. 20460, and at the EPA Region III office, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. Documents (p) and (q) are available for inspection at the EPA Region III office only.

Effective Dates

Should the State of Maryland submit revisions to its own plan which are determined to meet the requirements of the law, the regulations set forth in this notice will be rescinded. It is the desire of the Environmental Protection Agency that the plan to attain and maintain the national ambient air quality standards in the Metropolitan Baltimore Intrastate Region be a State plan carried out by the State.

The regulations promulgated today become effective on January 11, 1974, except in the case of those regulations that impose requirements for specific action at earlier dates. In such cases, the Administrator has found that good cause exists for accelerating the effective date because of the need to take action as expeditiously as practicable in order to attain and maintain the national ambient air quality standards. The regulation for management of parking supply is effective immediately upon signature of this plan and applies to actions taken after August 15, 1973. The regulation to control growth of major sources of photochemically reactive organic materials is effective after December 12, 1973.

Although to comply with the requirements of the court order, this plan has been promulgated in legally binding form, comment on it is invited on or before January 14, 1974. At the conclusion of the comment period, and after the comments have been evaluated, EPA will revise this plan if revision is appropriate in the light of the comments received.

This rulemaking is made pursuant to section 110(c) and 301(a) of the Clean Air Act (42 U.S.C. 1857c-5(c)(a) and 1857(g)).

Dated: November 30, 1973.

John Quarles,
Acting Administrator.

Subpart V of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart V—Maryland

1. Section 52.1072 is amended by revising paragraph (b) to read as follows:

§ 52.1072 Extensions.

* * * * *

(b) The Administrator hereby extends for two years the attainment dates for the national standards for carbon monoxide and photochemical oxidants in the Maryland portion of the National Capital Interstate Region and in the Metropolitan Baltimore Intrastate Region.

2. Section 52.1073 is revised to add paragraphs (d) and (e) as follows:

§ 52.1073 Approval status.

* * * * *

(d) With respect to the transportation control strategies submitted on April 16, June 15, June 28, and July 9, 1973, the Administrator approves the measures for the Metropolitan Baltimore Intrastate Region for carpool

locator, dry cleaning solvent use, gasoline vapor recovery, emission "freeze" by limiting construction of new sources, increased bus fleet size, and traffic flow improvements with the exceptions set forth in §§ 52.1074, 52.1077, 52.1080, 52.1081, and 52.1082.

(e) With respect to the transportation control strategies submitted on April 16, June 15, June 28, and July 9, 1973, the Administrator disapproves the measures for inspection programs, heavy duty vehicle inspection and retrofit and vehicle use restriction during predicted stagnations for the reasons set forth in §§ 52.1074 and 52.1081.

3. In § 52.1074, paragraphs (a) and (b) are revised to read as follows:

§ 52.1074 Legal authority.

(a) The requirements of §§ 51.11(b) and 51.14(a)(3)(iv) of this chapter are not met with respect to the vehicle inspection program and the heavy duty inspection and retrofit programs referred to in §§ 52.1073(c) and 52.1073(e), because a definite commitment to obtain legal authority was not made and a definite timetable to obtain legal authority was not submitted. The requirements of §§ 51.11(b) and 51.14(a)(3)(iv) of this chapter are also not met with respect to the strategy referred to in § 52.1073(e) to restrict vehicle use in the Metropolitan Baltimore Region during predicted stagnations because that strategy was not defined in sufficient detail to show what specific legal authority would be needed. With respect to the carpool locator program, the traffic flow program, and the program to increase the bus fleet size, all referred to in § 52.1073(d) copies of the relevant sources of legal authority were not submitted. Hence, the requirements of § 51.11(c) of this chapter are not met with respect to those strategies.

(b) The requirements of § 51.11(f) of this chapter are not fully met for the Maryland portion of the National Capital Region because it is not clearly demonstrated that all local agencies have requisite legal authority, or that the State retains responsibility for implementing the transportation control measures. The requirements of § 51.11(f) of this chapter are not met with respect to the traffic flow improvement program in the Metropolitan Baltimore Region, referred to in § 52.1073(d), since the State of Maryland does not have authority to carry on the program in the City of Baltimore if the City fails to implement it.

4. In § 52.1077, paragraph (c) is amended by revising the first sentence of paragraph (c)(2) to read as follows:

§ 52.1077 Source surveillance.

* * * * *

(c) *Monitoring transportation sources.* * * *

(2) In order to assure the effectiveness of the inspection and maintenance programs and the retrofit devices required under §§ 52.1089, 52.1091, 52.1092, 52.1093, 52.1094, 52.1095, 52.1096, 52.1097, 52.1098, 52.1099, and 52.1100 the State shall monitor the actual per-vehicle emissions reductions occurring as a result of such measures. * * *

(3) In order to assure in the Maryland portion of the National Capital Interstate Region the effective implementation of the carpool locator, express bus lanes, increased bus fleet and service, elimination of free on-street commuter parking and the parking surcharge approved in § 52.1073(b) and to assure in the Metropolitan Baltimore Intrastate Region the effective implementation of the traffic flow improvement program and the increased bus fleet approved in § 52.1073(d) and the exclusive bus lanes required under § 52.1108, the carpool locator program required under § 52.1104, the parking restrictions and limitations required under §§ 52.1109, and 52.1111, and the bikeways required under § 52.1106, the State shall monitor vehicle miles traveled and average vehicle speed for each area in which such sections are in effect and during such time periods as may be appropriate to evaluate the effectiveness of such a program. * * *

§ 52.1078 [Amended]

5. In § 52.1078, the attainment date table is revised by replacing the date "May 31, 1975", for attainment of

the national standards for carbon monoxide in the Metropolitan Baltimore Intrastate Regions with the date May 31, 1977, and by replacing the letter "a" which designates the attainment date of national standards for photochemical oxidants in the Metropolitan Baltimore Intrastate Region with the date May 31, 1977.

6. In § 52.1080, paragraphs (i) through (k) are added to read as follows:

§ 52.1080 Compliance schedules.

* * * * *

(i) With respect to the transportation control strategies submitted on April 16, June 15, June 28, and July 9, 1973, by the State for the Metropolitan Baltimore Intrastate AQCR, the requirements of § 51.14(a)(3)(iv) of this chapter are not fully met for the measures for increased bus fleet and traffic flow improvements. Provisions to satisfy the requirements of § 51.14(a)(3)(iv) of this chapter and to cure lack of compliance with §§ 51-.11(c) and 51.14(a)(3)(i) of this chapter are promulgated in paragraphs (j) and (k) of this section.

(j) With respect to the measure for increased bus fleet approved in § 51.1073(d) of this chapter:

(1) The State of Maryland shall, no later than January 31, 1974, submit a compliance schedule to the Administrator to put the program in effect. The compliance schedule shall, at a minimum, include copies of the legal authority which authorizes purchase of buses and shall also provide that the State of Maryland shall, on or before March 1, 1974, submit to the Administrator a statement, signed by the official or officials of the State who are authorized to enter into contracts for bus purchase, indicating that financial commitments have been made or definitely will be made by the State of Maryland to purchase buses at least in the following amounts and according to the following schedule:

(i) June 1973 to June 1974—150 buses.
(ii) June 1974 to June 1975—75 buses.
(iii) June 1975 to June 1976—75 buses.
(iv) June 1976 to June 1977—75 buses.

(k) With respect to the measures for traffic flow improvements approved in § 52.1073(d):

(1) The State of Maryland and, with respect to projects under its control, the City of Baltimore, shall, on or before March 1, 1974, each submit to the Administrator a compliance schedule which shall be subject to the Administrator's approval and which shall include, at a minimum, copies of all relevant sources of authority for the program of traffic flow improvements, a signed statement by the Governor of Maryland, the Mayor of Baltimore or their designees, identifying the sources of funding for the program, and a complete list of specific projects and their estimated initiation and completion dates. All projects necessary to the pollution reduction benefits claimed in the State plan must be completed by May 31, 1977. On or before May 1, 1974, the State of Maryland and the City of Baltimore shall submit to the Administrator legally adopted regulations providing for completion of the projects in accordance with the compliance schedule.

(2) The State of Maryland and the City of Baltimore shall in the compliance schedule required pursuant to this paragraph, indicate for each project in the traffic anticipated in average annual daily traffic volume within twenty years of project completion on the road or highway in question because of the project. No project shall be approved by the Administrator if the air pollution benefits in terms of speeding traffic flow will be negated by increased traffic volume.

7. Section 52.1081 is amended by adding paragraphs (c) and (d) to read as follows:

§ 52.1081 Control strategy: Carbon monoxide and photochemical oxidants (hydrocarbons).

* * * * *

(c) With respect to the transportation control plan for the Metropolitan Baltimore Intrastate Region submitted by the State on April 16, June 15, June 28, and July 9, 1973, the requirements of § 51.14(a)(3)(i) and (ii) of this chapter are not met because there are no proposed regulations, nor an adequate description of en-

forcement and administrative procedures for the carpool locator program approved in § 52.1073(d). To cure these deficiencies and the deficiencies set out in § 52.1074(a), a carpool locator regulation is promulgated in § 52.1104. The requirements of § 51.14(a)(3)(i) of this chapter are also not met, in whole or in part, for inspection/maintenance, heavy duty retrofit, and restricted vehicle use during predicted stagnations referred to in § 52.1073(e), and the traffic flow improvement program referred to § 52.1073(d).

(d) The requirements of § 51.14(c) of this chapter are not met with respect to the restrictions on vehicle use during predicted stagnations disapproved in § 52.1073(e). Maryland has not demonstrated the availability of a reliable method or system for predicting air episodes. The requirements of § 51.14(c) of this chapter are also not met with respect to gasoline vapor controls since Maryland does not propose to achieve any specific percentage of emission reductions with the control apparatus it proposes, nor does it demonstrate what reduction the controls it proposes will achieve.

8. Section 52.1082 is amended by adding paragraph (b) to read as follows:

§ 52.1082 Rules and regulations.

* * * * *

(b) The requirements of § 51.22 of this chapter are not met for the Metropolitan Baltimore Intrastate Region because adopted regulations to implement proposed stationary control measures referred to in § 52.1073(d) establishing an "emission freeze" were not submitted, and adopted regulations to control gas handling and dry cleaning emissions, measures referred to in § 52.1073(d), were not submitted in time to be approved prior to this promulgation. Substitute regulations for gas handling and dry cleaning emissions are promulgated in §§ 52-.1101, 52.1102, and 52.1107. The gasoline vapor recovery regulations as promulgated specify a 90 percent reduction in emissions, thus curing the defect noted in paragraph (d) of § 52.1081. A substitute regulation for the emission freeze is promulgated in § 52.1112.

9. Part 52 is amended by adding new sections to read as follows:

§ 52.1095 Inspection and maintenance program.

(a) Definitions:

(1) "Inspection and maintenance program" means a program for reducing emissions from in-use vehicles through identifying vehicles that need emission control-related maintenance and requiring that such maintenance be performed.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) "Medium-duty vehicle" means a gasoline-powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(4) "Heavy-duty vehicle" means a gasoline-powered motor vehicle rated at 10,000 GVW or more.

(5) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with the meanings so defined.

(b) This section is applicable within the Metropolitan Baltimore Intrastate AQCR.

(c) The State of Maryland shall establish an inspection and maintenance program applicable to all light-duty, medium-duty, and heavy-duty vehicles registered in the area specified in paragraph (b) of this section that operate on public streets or highways over which it has ownership or control. The State may exempt any class or category of vehicles that the State finds is rarely used on public streets or highways (such as classic or antique vehicles). No later than April 1, 1974, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Provisions for inspection of all light-duty, medium-duty, and heavy-duty motor vehicles at periodic intervals no more than 1 year apart by means of a loaded emission test.

(2) Provisions for inspection failure criteria consistent with the failure of 30 percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive within two weeks, the maintenance necessary to achieve compliance with the inspection standards. These shall include sanctions against individual owners and repair facilities, retest of failed vehicles following maintenance, use of a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts, and knowledgeable operators to perform the tasks satisfactorily, and use of such other measures as may be necessary or appropriate.

(4) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This enforcement program might include spot checks of idle adjustments and/or a suitable type of physical tagging. This program shall include appropriate penalties for violation.

(5) Provisions for beginning the first inspection cycle by August 1, 1975, and completing it by July 31, 1976.

(6) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) After July 31, 1976, the State shall not register or allow to operate on public streets or highways any light-duty, medium-duty, or heavy-duty vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) After July 31, 1976, no owner of a light-duty medium-duty, or heavy-duty vehicle shall operate or allow the operation of such vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(f) The State of Maryland shall submit, no later than February 1, 1974, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section, including:

(1) The text of needed statutory proposal and regulations that it will propose for adoption.

(2) The date by which the State will recommend needed legislation to the State legislature.

(3) The date by which necessary equipment will be ordered.

(4) A signed statement from the Governor or his designee identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation shall be submitted.

§ 52.1096 Vacuum spark advance disconnect retrofit.

(a) Definitions:

(1) "Vacuum spark advance disconnect retrofit" means a device or system installed on a motor vehicle that prevents the ignition vacuum advance from operating either when the vehicle's transmission is in the lower gears, or when the vehicle is traveling below a predetermined speed, so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide of at least 25 and 9 percent, respectively, from 1967 and earlier light-duty vehicles.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable within the Metropolitan Baltimore Intrastate AQCR.

(c) The State of Maryland shall establish a retrofit program to ensure that on or before January 1, 1976, all light-duty vehicles of model years prior to 1968 reg-

istered in the area specified in paragraph (b) of this section are equipped with an appropriate vacuum spark advance disconnect retrofit device or other device, as approved by the Administrator that will reduce exhaust emissions of hydrocarbons and carbon monoxide at least to the same extent as a vacuum spark advance disconnect retrofit. No later than February 1, 1974, the State of Maryland shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the State proposed for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(d) No later than April 1, 1974, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of subparagraph (3) of this paragraph are enforced.

(3) Provisions for beginning the installation of the retrofit devices by January 1, 1975, and completing the installation of the devices on all vehicles subject to this section no later than January 1, 1976.

(4) A provision that starting no later than January 1, 1976, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.1095 unless it has been first equipped with an approved vacuum spark advance disconnect retrofit device, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device assurance that the device is installed and operating correctly.

(e) After January 1, 1976, the State shall not register or allow to operate on its streets or highways any light-duty vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After January 1, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) The State may exempt any class or category of vehicles from this section which the State finds is rarely used on public streets and highways (such as classic or antique vehicles) or for which the State demonstrates to the Administrator that vacuum spark advance disconnect devices or other devices approved pursuant to this section are not commercially available.

§ 52.1097 Oxidizing catalyst retrofit—Baltimore.

(a) Definitions:

(1) "Oxidizing catalyst" means a device that uses a catalyst installed in the exhaust system of a vehicle (and if necessary, includes an air pump) so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide of at least 50 and 50 percent, respectively, from light-duty vehicles of 1971-1975 model years and of least 50 and 50 percent, respectively, from medium-duty vehicles of 1971-1975 model years.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) "Medium-duty vehicle" means a gasoline-powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(4) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable within the Metropolitan Baltimore Intrastate AQCR.

(c) The State of Maryland shall establish a retrofit program to ensure that on or before May 31, 1977, all light-duty and medium-duty vehicles of model years 1971 through 1975 which are registered in the area specified in paragraph (b) of this section and are able to operate on 91 RON gasoline, are equipped with an appropriate oxidizing catalyst retrofit device or other device, as approved by the Administrator, that will reduce exhaust emissions of hydrocarbons and carbon monoxide at least to the same extent as an oxidizing catalyst retrofit device. No later than April 1, 1974, the State of Maryland shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the State proposes for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than January 1, 1975.

(d) No later than September 1, 1974, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of subparagraph (3) of this paragraph are enforced.

(3) Provisions for beginning the installation of the retrofit devices by January 1, 1976, and completing the installation of the devices on all vehicles subject to this section no later than May 31, 1977.

(4) A provision that starting no later than May 31, 1977, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided by § 52.1095 unless it has been first equipped with an approved oxidizing catalyst device, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit device have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(e) After May 31, 1977, the State shall not register or allow to operate on its streets or highways any vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After May 31, 1977, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) Any vehicle which is manufactured equipped with an oxidizing catalyst, or which is certified to meet the original 1975 light-duty vehicle emission standards set forth in section 202(b)(1)(A) of the Clean Air Act of 1970 (without regard to any suspension of such standards), shall be exempt from the requirements of this section.

§ 52.1098 Light-duty air/fuel control retrofit.

(a) Definitions:

(1) "Air-Fuel control retrofit" means a system or device such as modification to the engine's carburetor or positive crankcase ventilation system) that results in en-

gine operation at an increased air-fuel ratio so as to achieve reduction in exhaust emissions of hydrocarbons and carbon monoxide of at least 25 and 40 percent, respectively, from 1968 through 1971 model year light-duty vehicles.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable within the Metropolitan Baltimore Intrastate AQCR.

(c) The State of Maryland shall establish a retrofit program to ensure that on or before August 1, 1976, all light-duty vehicles of 1968-1971 model years which are not required to be retrofitted with an oxidizing catalyst or other approved device pursuant to § 52-1097, which are registered in the area specified in paragraph (b) of this section are equipped with an appropriate air/fuel control device or other device as approved by the Administrator that will reduce exhaust emissions of hydrocarbons and carbon monoxide at least to the same extent as an air/fuel control device. No later than February 1, 1974, the State of Maryland shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the State proposes for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(d) No later than April 1, 1974, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of subparagraph (3) of this paragraph are enforced.

(3) Provisions for beginning the installation of the retrofit devices by August 1, 1975, and completing the installation of the devices on all vehicles subject to this section no later than August 1, 1976.

(4) A provision that starting no later than August 1, 1976, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.1095 unless it has been first equipped with an approved air/fuel control retrofit, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(e) After August 1, 1976, the State shall not register or allow to operate on its streets or highways any vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After August 1, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) The State may exempt any class or category of vehicle from this section which the State finds is rarely used on public streets and highways (such as classic or antique vehicles) or for which the State demonstrates to the Administrator that air/fuel control devices or other

devices approved pursuant to this section are not commercially available.

§ 52.1099 Medium-duty air/fuel control retrofit.

(a) Definitions:

(1) "Air/fuel control retrofit" means a system or device (such as modification to the engine's carburetor or positive crankcase ventilation system) that results in engine operation at an increased air/fuel ratio so as to achieve reduction in exhaust emissions of hydrocarbons and carbon monoxide of at least 15 and 30 percent, respectively, from 1973 and earlier medium-duty vehicles.

(2) "Medium-duty vehicle" means a gasoline-powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(3) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable within the Metropolitan Baltimore Intrastate AQCR.

(c) The State of Maryland shall establish a retrofit program to ensure that on or before May 31, 1976, all medium-duty vehicles of model years prior to 1974 which are not required to be retrofitted with an oxidizing catalyst or other approved device pursuant to § 52.1097, which are registered in the area specified in paragraph (b) of this section, are equipped with an appropriate air/fuel control device or other device as approved by the Administrator that will reduce exhaust emissions of hydrocarbons and carbon monoxide to the same extent as an air/fuel control device. No later than February 1, 1974, State of Maryland shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the test of statutory proposals, regulations, and enforcement procedures that the State proposes for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(d) No later than April 1. 1974, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of subparagraph (3) of this paragraph are enforced.

(3) Provisions for beginning the installation of the retrofit devices by August 1, 1975, and completing the installation of the devices on all vehicles subject to this section no later than May 31, 1976.

(4) A provision that beginning no later than May 31, 1976, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.1095 unless it has been first equipped with an approved air/fuel control retrofit, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those persons installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(e) After May 31, 1976, the State shall not register or allow to operate on its streets or highways any vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After May 31, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) The State may exempt any class or category of vehicles from this section which the State finds is rarely used on public streets and highways (such as classic or antique vehicles) or for which the State demonstrates to the Administrator that air/fuel control devices or other devices approved pursuant to this section are not commercially available.

§ 52.1100 Heavy-duty air/fuel control retrofit.

(a) Definitions:

(1) "Air/fuel control retrofit" means a system or device (such as modification to the engine's carburetor or positive crankcase ventilation system, that results in engine operation at an increased air/fuel ratio so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide from heavy-duty vehicles of at least 30 and 40 percent, respectively.

(2) "Heavy-duty vehicles" means a gasoline-powered motor vehicle rated at 10,000 lb gross vehicle weight (GVW) or more.

(3) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable within the Metropolitan Baltimore Intrastate AQCR.

(c) The State of Maryland shall establish a retrofit program to ensure that on or before May 31, 1977, all heavy-duty vehicles registered in the area specified in paragraph (b) of this section are equipped with an appropriate air/fuel control retrofit or other device as approved by the Administrator that will reduce exhaust emissions of hydrocarbons and carbon monoxide at least to the same extent as an air/fuel control retrofit. No later than April 1, 1974, the State of Maryland shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the State proposes for adoption. The compliance schedule shall also include a date by which the

State shall evaluate and approve devices for use in this program. Such date shall be no later than January 1, 1975.

(d) No later than September 1, 1974, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluation and approving devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of subparagraph (3) of this paragraph are enforced.

(3) Provisions for beginning the installation of the retrofit devices by January 1, 1976, and completing the installation of the device on all vehicles subject to this section no later than May 31, 1977.

(4) A provision that starting no later than May 31, 1977, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by § 52.1095 unless it has been first equipped with an approved air/fuel control retrofit, or other device approved pursuant to this section, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(6) Provision (apart from the requirements of any general program for periodic inspection and maintenance of vehicles) for emissions testing at the time of device installation or some other positive assurance that the device is installed and operating correctly.

(e) After May 31, 1977, the State shall not register or allow to operate on its streets or highways any vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After May 31, 1977, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(g) The State may exempt any class or category of vehicles from this section which the State finds is rarely used on public streets and highways (such as classic or antique vehicles) or for which the State demonstrates to the Administrator that air/fuel control retrofits or other devices approved pursuant to this section are not commercially available.

§ 52.1101 Gasoline transfer vapor control.

(a) Definitions:

(1) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the Metropolitan Baltimore Intrastate AQCR.

(c) No person shall transfer gasoline from any delivery vessel into any stationary storage container with a capacity greater than 250 gallons unless the displaced vapors from the storage container are processed by a system that prevents release to the atmosphere of no less than 90 percent by weight of organic compounds in said vapors displaced from the stationary container location.

(1) The vapor recovery portion of the system shall include one or more of the following:

(i) A vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline can be transferred into the container.

(ii) Refrigeration-condensation system or equivalent designed to recover no less than 90 percent by weight of the organic compounds in the displaced vapor.

(2) If a "vapor-tight vapor return" system is used to meet the requirements of this section, the system shall be so constructed as to be readily adapted to retrofit with an adsorption system, refrigeration-condensation system, or equivalent vapor removal system, and so constructed as to anticipate compliance with § 52.1102 of this subpart.

(3) The vapor-laden delivery vessel shall be subject to the following conditions:

(i) The delivery vessel must be so designed and maintained as to be vapor-tight at all times.

(ii) The vapor-laden delivery vessel may be refilled only at facilities equipped with a vapor recovery system or the equivalent, which can recover at least 90 percent by weight of the organic compounds in the vapors displaced from the delivery vessel during refilling.

(iii) Gasoline storage compartments of 1,000 gallons or less in gasoline delivery vehicles presently in use on the promulgation date of this regulation will not be required to be retrofitted with a vapor return system until January 1, 1977.

(d) The provisions of paragraph (c) of this section shall not apply to the following:

(1) Stationary containers having a capacity less than 550 gallons used exclusively for the fueling of implements of husbandry.

(2) Any container having a capacity less than 2,000 gallons installed prior to promulgation of this section.

(3) Transfers made to storage tanks equipped with floating roofs or their equivalent.

(e) Every owner or operator of a stationary storage container or delivery vessel subject to this section shall comply with the following compliance schedule:

(1) *April 1 1974.* Submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with the provisions of paragraph (c) of this section.

(2) *May 1, 1974.* Negotiate and sign all necessary contracts for emission control systems, or issue orders for the purchase of component parts to accomplish emission control.

(3) *January 1, 1975.* Initiate on-site construction or installation of emission control equipment.

(4) *February 1, 1976.* Complete on-site construction or installation of emission control equipment.

(5) *March 1, 1976.* Assure final compliance with the provisions of paragraph (c) of this section.

(6) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(f) Paragraph (e) of this section shall not apply:

(1) To a source which is presently in compliance with the provisions of paragraph (c) of this section and which has certified such compliance to the Administrator by January 31, 1974. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator, by January 31, 1974, a proposed alternative schedule. No such schedule may provide for compliance after March 1, 1976. Any such schedule shall provide for certification to the Administrator within 5 days after the deadline for each increment therein, as to whether or not that increment has been met. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(g) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (e) of this section fails to satisfy the requirements of § 51.15(b) and (c) of this chapter.

(h) Any gasoline dispensing facility subject to this section which installs a storage tank after the effective date of this section shall comply with the requirements of paragraph (c) of this section by March 1, 1976, and prior to that date shall comply with paragraph (e) of this section as far as possible. Any facility subject to this section which installs a storage tank after March 1, 1976,

shall comply with the requirements of paragraph (c) of this section at the time of installation.

§ 52.1102 Control of evaporative losses from the filling of vehicular tanks.

(a) Definitions:

(1) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the Metropolitan Baltimore Intrastate AQCR.

(c) A person shall not transfer gasoline to an automotive fuel tank from a gasoline dispensing system unless the transfer is made through a fill nozzle designed to:

(1) Prevent discharge of hydrocarbon vapors to the atmosphere from either the vehicle filler neck or dispensing nozzle;

(2) Direct vapor displaced from the automotive fuel tank to a system wherein at least 90 percent by weight of the organic compounds in displaced vapors are recovered; and

(3) Prevent automotive fuel tank overfills or spillage on fill nozzle disconnect.

(d) The system referred to in paragraph (c) of this section can consist of a vapor-tight return line from the fill nozzle-filler neck interface to the dispensing tank or to an adsorption, absorption, incineration, refrigeration-condensation system or its equivalent.

(e) Components of the systems required by § 52.1101 (c) can be used for compliance with paragraph (c) of this section.

(f) If it is demonstrated to the satisfaction of the Administrator that it is impractical to comply with the provisions of paragraph (c) of this section as a result of vehicle fill neck configuration, location, or other design features of a class of vehicles, the provisions of this section shall not apply to such vehicles. However, in no case shall such configuration exempt any gasoline dispensing facility from installing and using in the most effective manner a system required by paragraph (c) of this section.

(g) Every owner or operator of a gasoline dispensing system subject to this section shall comply with the following compliance schedule.

(1) *April 1, 1974.* Submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with provisions of paragraph (c) of this section.

(2) *July 1, 1974.* Negotiate and sign all necessary contracts for emission control systems, or issue orders for the purchase of component parts to accomplish emission control.

(3) *January 1, 1975.* Initiate on-site construction or installation of emission control equipment.

(4) *May 1, 1977.* Complete on-site construction or installation of emission control equipment or process modification.

(5) *May 31, 1977.* Assure final compliance with the provisions of paragraph (c) of this section.

(6) Any owner or operator of sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(h) Paragraph (g) of this section shall not apply:

(1) To a source which is presently in compliance with the provisions of paragraph (c) of this section and which has certified such compliance to the Administrator by January 31, 1974. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator by January 31, 1974, a proposed alternative schedule. No such schedule may provide for compliance after May 31, 1977. Any such schedule shall provide for certification to the Administrator within 5 days after the deadline for each increment therein, as to whether or not that increment has been met. If promulgated by the Administrator, such schedule shall satisfy

the requirements of this paragraph for the affected source.

(i) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (g) of this section fails to satisfy the requirements of § 51.15(b) and (c) of this chapter.

(j) Any gasoline dispensing facility subject to this section which installs a gasoline dispensing system after the effective date of this section shall comply with the requirements of paragraph (c) of this section by May 31, 1977 and prior to that date shall comply with paragraph (g) of this section as far as possible. Any facility subject to this section which installs a gasoline dispensing system after May 31, 1977, shall comply with the requirements of paragraph (c) of this section at the time of installation.

§ 52.1104 Carpool Commuter Matching System.

(a) Definitions:

(1) "Carpool" means two or more persons utilizing the same vehicle.

(2) "Carpool matching" means assembling lists of commuters sharing similar travel needs and providing a mechanism by which persons on such lists may be put in contact with each other for the purpose of forming carpools.

(3) "Time-origin-destination (TOD) information" means information that identifies a commuter's work schedule, home and work location, or the location of other desired origins and destinations of trips (such as shopping or recreational trips).

(4) "Pilot program" means a program that is initiated on a limited basis for the purpose of facilitating a future full scale regional program.

(b) This section is applicable in the Metropolitan Baltimore Intrastate AQCR (the Region).

(c) Beginning June 1, 1975, the State of Maryland shall, unless exempted by the Administrator on the basis

of a finding that equivalent service is being or will be provided by some other public or private entity, establish a computer-aided carpool matching system which is conveniently available at least to all employees of employers within the Region who employ 100 or more employees. The system shall as soon as practicable, be made available to employees of smaller employers. No later than June 1, 1974, the State of Maryland shall submit to the Administrator a program, legally adopted (through regulation or statute) by and legally binding on the State, providing for such a system. The program shall include:

(1) A method of collecting information which will include the following as a minimum:

(i) Provisions for each affected employee to receive an application form with a cover letter describing the matching program.

(ii) Provisions on each application for applicant identification of his TOD information, and the applicant's desire to drive only, ride only, or share driving.

(2) A computer method of matching information that will have provisions for locating each applicant's origin and destination within a grid system in the Region and matching applicants with identical origin and destination grids and compatible work schedules.

(3) A method for providing continuing service so that the master list of all applicants is retained and available for use by new applicants, applications are currently available, and the master list is periodically, updated to remove applicants who have moved from the area served.

(4) An agency or agencies responsible for operating, overseeing and maintaining the carpool computer matching system.

(d) No later than January 1, 1975, a pilot program shall be initiated in the Region identified in paragraph (b) of this section in preparation for the full implementation required under paragraph (c) of this section.

§ 52.1105 Employee's provision for mass transit priority incentives.

(a) Definitions:

(1) "Employee parking space" means any parking space reserved or provided by an employer for the use of his employees.

(b) This section is applicable in the Metropolitan Baltimore Intrastate AQCR (the Region).

(c) Each employer in the Region who maintains more than 700 employee parking spaces shall, on or before February 1, 1974, submit to the Administrator an adequate transit incentive program designed to encourage the use of mass transit and discourage the use of single-passenger automobiles by his employees. This program may contain provisions for subsidies to employees who use mass transit, reductions in the number of employee parking spaces, or surcharges on the use of such spaces by employees, provision of special charter buses or other modes of mass transit for the use of employees, preferential parking and other benefits to employees who travel to work by carpool and/or any other measure acceptable to the Administrator. By April 1, 1974, the Administrator shall approve such program for each employer if he finds it to be adequate, and shall disapprove it if he finds it not to be adequate. Notice of such approval or disapproval will be published in this Part 52.

(d) In order to be approvable by the Administrator, such program shall contain procedures whereby the employer will supply the Administrator with semi-annual certified reports which shall show, at a minimum the following information:

(1) The number of employees at each of the employer's facilities within the Region on October 15, 1973, and as of the date of the report.

(2) The number of (i) free and (ii) non-free employee parking spaces provided by the employer at each such employment facility on October 15, 1973, and as of the date of the report.

(3) The number of employees regularly commuting to and from work by (i) private automobile, (ii) carpool, and (iii) mass transit at each such employment facility on October 15, 1973, and as of the date of the report.

(4) Such other information as the Administrator may prescribe.

(e) If, after the Administrator has approved a transit incentive program, the employer fails to submit any reports in full compliance with paragraph (d) of this section, or if the Administrator finds that any such report has been intentionally falsified, or if the Administrator determines that the program is not in operation or is not providing adequate incentives for employee use of carpools and mass transit, the Administrator may revoke the approval of such plan. Such revocation shall constitute a disapproval.

(f) By April 1, 1974, the Administrator shall prescribe a transit incentive program for each employer to whom paragraph (c) of this section is applicable if such employer has not submitted a program. By June 1, 1974, the Administrator shall prescribe a transit incentive program for each employer to whom paragraph (c) of this section is applicable if the program submitted is not adequate. Within two months after any revocation pursuant to paragraph (e) of this section, the Administrator shall prescribe a transit incentive program for the affected employer. Any program prescribed by the Administrator shall be published in this Part 52.

(g) Each employer in the Region who maintains more than 70 employee parking spaces shall, on or before February 1, 1975, submit to the Administrator an adequate transit incentive program conforming to the requirements of paragraphs (c) and (d) of this section, except that in paragraph (d) of this section, the reference date of reports shall be October 15, 1974, rather than October 15, 1973. Each such program shall be subject to approval or disapproval by the Administrator by April 1, 1975. Each such program, when approved, shall be subject to revocation as provided in paragraph (e) of this section.

(h) By April 1, 1975, the Administrator shall prescribe a transit incentive program for each employer to which paragraph (g) of this section is applicable if such employer has not submitted a program. By June 1, 1975,

the Administrator shall prescribe a transit incentive program for each employer to which paragraph (g) of this section is applicable if the program submitted is not adequate. Within two months after any revocation of any program of any employer pursuant to paragraph (e) of this section, the Administrator shall prescribe a transit incentive program for the affected employer. Any program prescribed by the Administrator shall be published in this Part 52.

§ 52.1106 Study and establishment of bikeways in the Baltimore area.

(a) Definitions:

(1) "Baltimore CBD" is defined as the area in the City of Baltimore, Maryland, enclosed by, but not including, Centre Street, Fallsway, Falls Avenue, Pratt Street, Greene Street, Franklin Street, and Eutaw Street.

(b) This regulation is applicable in the Metropolitan Baltimore Intrastate AQCR.

(c) The State of Maryland shall, according to the schedule set forth in paragraph (d) of this section, conduct a study of, and shall in that study recommend locations for exclusive bicycle lanes and bicycle parking facilities in the area described in paragraph (b) of this section. The study shall be made with a view toward maximum safety and security. The study shall include consideration of the physical designs for such lanes and parking facilities, and of rules of the road for bicyclists and, to the extent that present rules must be modified because of bicycle lanes, new rules of the road for motorists. In conducting the study, opportunity shall be given for public comments and suggestions. The study shall recommend as large a network of new CBD (and return) oriented commuter bicycle lanes and bicycle parking facilities as is practicable within the area described in paragraph (b) of this section and shall recommend physical designs for said lanes and facilities. The networks shall contain at least 15 miles of exclusive bicycle lanes in each direction.

(d) The State of Maryland shall submit to the Administrator no later than March 1, 1974, a detailed compliance schedule showing the steps that will be taken to carry out the study required by paragraph (c) of this section. The compliance schedule shall at a minimum include:

(1) Designation of the agency responsible for conducting the study.

(2) A date for initiation of the study which date shall be no later than May 1, 1974.

(3) A date for completion of the study, and submittal thereof to the Administrator, which date shall be no later than March 1, 1975.

(4) A detailed timetable describing the steps that must be taken and when these steps will be taken to ensure the timely submittal of any legislation needed to generally authorize establishment of bikeways and parking facilities in Maryland to the State legislature.

(e) On or before April 1, 1975, the Administrator shall submit to the State of Maryland his response to the study required by paragraph (c) of this section, and shall, in that response, either approve the route and parking facility location and designs recommended in the study, or shall designate alternative and/or additional route and parking facility locations and designs.

(f) The State of Maryland and such county and local jurisdictions as the State shall request to participate in the establishment of the networks (the State must request the participation of a county or local jurisdiction if the participation of that jurisdiction is necessary to the establishment of the lanes and other facilities required by this section) shall establish, according to the schedule set forth in the compliance schedule required by paragraph (g) of this section, bike lanes and parking facilities along the routes and in the locations approved or designated by the Administrator pursuant to paragraph (e) of this section.

(g) On or before June 1, 1975, the State of Maryland, and such county and local jurisdictions as the State has

requested to participate (and are, therefore, required to participate by paragraph (f) of this section) shall submit to the Administrator compliance schedules which shall show in detail the steps which each governmental entity will take to establish the bike lanes and parking facilities required by this section. The schedule must include as a minimum the following:

(1) Each lane and parking facility must be identified with a date set for its establishment.

(2) The design, security and safety features of each lane and parking facility must be precisely described and shown to be in accord with the designs approved or designated by the Administrator pursuant to paragraph (e) of this section.

(3) A date must be set for the initiation of lane and parking construction, which date shall be no later than September 1, 1975.

(4) A date must be set for completion of 50 percent of lane and parking construction, which date shall be no later than February 1, 1976.

(5) A date must be set for completion of 100 percent of lane and parking construction, which date shall be no later than May 31, 1976.

(6) Designations must be made of the agencies responsible for guaranteeing the establishment of the lanes and facilities in accordance with the Administrator's response to the State study.

(7) Signed statements of the chief executives of all jurisdictions involved in the establishment of the lanes and parking facilities required by this section, or their designees, must be submitted identifying the sources and amounts of funding for the programs required by this section, along with a timetable to ensure that proper funds will be available.

(h) No later than August 1, 1975, each governmental entity required by this section to establish bicycle lanes and/or parking facilities, shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.

(i) Notwithstanding paragraph (c) of this section, if prior to the completion and submittal of the study required by paragraph (c) of this section, the State of Maryland has good and reasonable cause, through public comment or otherwise, to believe that the maximum practicable network of bicycle lanes will be less than 15 miles, in each direction, the State shall so notify the Administrator and shall obtain his concurrence or nonconcurrence, and shall conduct the remainder of the study to assure that the network of lanes shall be that mileage specified by the Administrator. Notice pursuant to this paragraph (i) shall be given no later than the beginning of the ninth month of the study.

§ 52.1107 Control of dry cleaning solvent evaporation.

(a) Definitions:

(1) "Dry cleaning operation" means that process by which an organic solvent is used in the commercial cleaning of garments and other fabric materials.

(2) "Organic solvents" means organic materials, including diluents and thinners, which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents.

(3) "Photochemically reactive solvent" means any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, as applied to the total volume of solvent.

(i) A combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cyclo-olefinic type of unsaturation: 5 percent;

(ii) A combination of aromatic compounds with 8 or more carbon atoms to the molecule except ethylbenzene: 8 percent;

(iii) A combination of ethylbenzene or ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent.

(b) This section is applicable to the Metropolitan Baltimore Intrastate AQCR.

(c) No person shall operate a dry cleaning operation using other than perchloroethylene, 1,1,1-trichloroethane, or saturated halogenated hydrocarbons unless the uncontrolled organic emissions from such operation are reduced at least 85 percent: *Provided*, That dry cleaning operations emitting less than 8 pounds per hour and less than 40 pounds per day of uncontrolled organic materials are exempt from the requirement of this section.

(d) If incineration is used as a control technique, 90 percent or more of the carbon in the organic emissions being incinerated must be oxidized to carbon dioxide.

(e) Any owner or operator of a source subject to this section shall achieve compliance with the requirements of paragraph (c) of this section by discontinuing the use of photochemically reactive solvents no later than May 31, 1974, or by controlling emissions as required by paragraphs (c) and (d) of this section by May 31, 1974.

§ 52.1108 Exclusive bus lanes for Baltimore suburbs and outlying areas.

(a) Definitions:

(1) "Carpool" means a vehicle containing three or more persons.

(2) "Bus/carpool lane" means a lane on a street or highway, which lane is open only to buses (or buses and carpools), whether constructed specially for that purpose or converted from existing lanes.

(3) "Baltimore CBD" means the area in the City of Baltimore, Maryland, enclosed by, but not including, Centre Street, Fallsway, Falls Avenue, Pratt Street, Greene Street, Franklin Street, and Eutaw Street.

(b) The State of Maryland and such county and local jurisdictions as the State may request to participate (the State must request the participation of a county or local jurisdiction by December 15, 1974, if the participation of that jurisdiction is necessary to the establishment of the lanes required by this section) shall establish, according to the schedule in paragraph (f) of this section, bus/carpool lanes along corridors connecting at least the following suburban or outlying areas (or alternative areas

if indicated in the study required by paragraph (c) of this section and approved by the Administrator) to the Baltimore CBD:

(1) Catonsville, Maryland
(2) Towson, Maryland
(3) Pikesville, Maryland
(4) Middle River and Essex, Maryland
(5) Overlea and Parkville, Maryland
(6) Halethorpe, Maryland
(7) Baynesville, Maryland
(8) Mount Washington section, Baltimore, Maryland
(9) Dundalk, Maryland
(10) Randallstown, Maryland
(11) Hunting Ridge section, Baltimore, Maryland
(12) Linthicum, Maryland
(13) Sparrows Point, Maryland

For each route either approved or designated by the Administrator pursuant to paragraph (d) of this section, except the route between the Baltimore CBD and Sparrows Point, at least one bus/carpool lane shall be established to serve traffic traveling toward the Baltimore CBD from 6:30 to 9:30 a.m. (or for a longer time), and at least one bus/carpool lane shall be established to serve traffic traveling toward the suburban or outlying areas from 3:30 to 6:30 p.m. (or for a longer time), Monday through Saturday. Along the route betwen the Baltimore CBD and Sparrows Point, Maryland, at least one bus/carpool lane shall be established to serve traffic traveling toward Sparrows Point from 6:30 to 9:30 a.m. (or for a longer time), and at least one bus/carpool lane shall be established to serve traffic traveling toward the Baltimore CBD from 3:30 to 6:30 p.m. (or for a longer time), Monday through Saturday.

(c) On or before November 1, 1974, the State of Maryland shall submit to the Administrator a study which shall contain for each of the corridors described in paragraph (b) of this section a detailed analysis showing every specific route location considered by the State for the corridor. The study shall designate one of the specific routes examined for each corridor as the most practicable route for that corridor. The study shall fully present the advantages and disadvantages of establishing the bus/carpool lanes provided for in paragraph (b) of this section along the most practicable route. For any corridor identified in this section along which the State concludes that bus/carpool lanes are not feasible, the State shall designate a replacement corridor connecting the Baltimore CBD and another significant source of CBD-bound traffic along which bus/carpool lanes are feasible. An analysis of the substituted corridor shall be included similar to the analysis of the original corridor, to show the most practicable route for said bus/carpool lanes.

(d) On or before December 1, 1974, the Administrator shall submit to the State of Maryland his response to the study required by paragraph (c) of this section, and shall in that response, either approve the routes selected by the State as most practicable and feasible for bus/carpool lanes, or shall designate alternative routes on which bus/carpool lanes must be established.

(e) On or before February 1, 1975, the State of Maryland and such county and local jurisdictions as the State has requested to participate (and are, therefore, required by paragraph (b) of this section to establish lanes) shall submit to the Administrator compliance schedules which shall show in detail the steps which each governmental entity will take to establish the bus/carpool lanes required by this section, and to enforce the limitations on their use. In the compliance schedule submitted pursuant to this paragraph a governmental entity may designate limited segments of lanes which may be entered briefly by vehicles, otherwise excluded from such lanes, for reasons of safety or sound traffic planning. Such exceptions shall be subject to the approval of the Administrator. Special circumstances justifying the need for such an exception (such as the desire to allow an exclusive lane to be entered briefly by automobiles for purposes of making a turn) must be set forth in detail.

(f) Bus/carpool lanes must be prominently indicated by distinctive painted lines, pylons, signs or physical

barriers. Twenty-five percent of the lane mileage for each of the governmental entities must be established and the needed signs installed by July 1, 1975; fifty percent by October 1, 1975; one hundred percent by January 1, 1976.

(g) A signed statement by the chief executive of each governmental entity establishing lanes, or his designee, shall be submitted to the Administrator no later than February 1, 1975, to identify the sources and amount of funds for all projects required by this section.

(h) No later than April 1, 1975, each governmental entity required by this section to establish lanes shall submit to the Administrator legally adopted regulations sufficient to implement and enforce all of the requirements of this section.

§ 52.1109 Regulation for limitation of public parking.

(a) Definitions:

(1) "On-street parking" means stopping a motor vehicle on any street, highway, or roadway (except for legal stops at or before intersections and as caution and safety require) whether or not a person remains in the vehicle.

(b) This section is applicable in the Metropolitan Baltimore Intrastate AQCR.

(c) Beginning May 1, 1975, each appropriate governmental entity shall prohibit on-street parking, Monday through Saturday, on all streets and highways over which it has ownership or control and which contain exclusive bus or bus/carpool lanes pursuant to § 52.1108. The prohibition against on-street parking on any particular street or highway shall be only for the period during which such street or highway has a lane or lanes reserved for buses, and/or carpools. Momentary stopping for the pickup or discharge of passengers on exclusive bus or bus/carpool lanes at established passenger stops shall be permitted. No later than April 1, 1975, each governmental entity subject to the requirements of this section shall submit to the Administrator legally adopted regulations establishing such a prohibition program. At a minimum, such regulations must provide that vehicles

parked in violation of the prohibition shall be towed away and the owner shall be fined not less than $50 per violation.

(d) No later than February 1, 1975, governmental entities subject to this section shall submit to the Administrator detailed compliance schedules showing the steps they will take to establish and enforce the foregoing on-street parking limitation program, including statutory proposals and needed regulations that they will propose for adoption.

§ 52.1110 Gasoline limitations.

(a) Definitions:

(1) "Distributor" means any person or entity that transports, stores, or causes the transportation or storage of gasoline between any refinery and any retail outlet.

(2) "Retail outlet" means any establishment at which gasoline is sold or offered for sale to the public, or introduced into any vehicle.

(b) This regulation is applicable in the Metropolitan Baltimore Intrastate AQCR (the Region) to all distributors of gasoline to any retail outlet in the Region, and to the owners and operators of all retail outlets in the Region.

(c) If the Administrator determines, on the basis of air quality monitoring in the Region, that the national ambient air quality standards for carbon monoxide and/or photochemical oxidants will not be attained in the Region by May 31, 1977, the Administrator shall implement a program, to be effective no later than May 31, 1977, limiting the total gallonage of gasoline delivered to retail outlets in the Region to that amount which, when combusted, will not result in the ambient air quality standards being exceeded.

(d) All distributors to which this section applies shall provide the Administrator with a detailed annual accounting of the amount of gasoline delivered to each retail outlet in the Region for calendar year 1976 and for each calendar year during which the gasoline limitation

program is in effect. The owner or operator of each retail outlet to which this section applies shall provide the Administrator with a detailed accounting of gasoline received from each distributor, the total amount of gasoline sold during the year, and the amount of gasoline on hand at the beginning and end of the year, for each year during which the gasoline limitation program is in effect. All accountings required by this section shall be provided no later than 90 days after the end of the applicable year. The Administrator may require any other report that he may deem necessary for the implementation of this section.

§ 52.1111 Management of parking supply.

(a) Definitions:

(1) "Parking facility" (also called "facility") means a lot, garage, building or structure, or combination or portion thereof, in or on which motor vehicles are temporarily parked.

(2) "Vehicle trip" means a single movement by a motor vehicle that originates or terminates at a parking facility.

(3) "Construction" means fabrication, erection, or installation of a parking facility, or any conversion of land, a building or structure, or portion thereof, for use as a facility.

(4) "Modification" means any change to a parking facility that increases or may increase the motor vehicle capacity of or the motor vehicle activity associated with such parking facility.

(5) "Commence" means to undertake a continuous program of onsite construction or modification.

(b) This section is applicable in the Metropolitan Baltimore Intrastate AQCR.

(c) The requirements of paragraphs (d) through (i) of this section are applicable to the following parking facilities in the area specified in paragraph (b) of this section, the construction or modification of which is commenced after August 15, 1973.

(1) Any new parking facility with parking capacity for 250 or more motor vehicles;

(2) Any parking facility that will be modified to increase parking capacity by 250 or more motor vehicles; and

(3) Any parking facility constructed or modified in increments which individually are not subject to review under paragraphs (c)(1) and/or (c)(2) of this section but which, when all such increments occurring since August 15, 1973, are added together, as a total would subject the facility to review under paragraphs (c)(1) and/or (c)(2) of this section.

(d) No person shall commence construction or modification of any facility subject to this section without first obtaining written approval from the Administrator or an agency designated by him; provided that this paragraph shall not apply to any proposed construction or modification for which a general construction contract was finally executed by all appropriate parties on or before August 15, 1973.

(e) No approval to construct or modify a facility shall be granted unless the applicant shows to the satisfaction of the Administrator or an agency approved by him that:

(1) The design or operation of the facility will not cause a violation of the control strategy which is part of the applicable implementation plan and will be consistent with the plan's VMT reduction goals.

(2) The emissions resulting from the design or operation of the facility will not prevent or interfere with the attainment or maintenance of any national ambient air quality standard at any time within 10 years from the date of application.

(f) Except to the extent that the Administrator or agency designated by him may waive any such requirement in writing, all applications for approval under this section shall include the following information:

(1) Name and address of the applicant.

(2) Location and description of the parking facility.

(3) A proposed construction schedule.

(4) The normal hours of operation of the facility and the enterprises and activities that it serves.

(5) The total motor vehicle capacity before and after the construction or modification of the facility.

(6) The number of people using or engaging in any enterprises or activities that the facility will serve on a daily basis and a peak hour basis.

(7) A projection of the geographic areas in the community from which people and motor vehicles will be drawn to the facility. Such projection shall include data concerning the availability of mass transit from such areas.

(8) An estimate of the average and peak hour vehicle trip generation rates, before and after construction or modification of the facility.

(9) An estimate of the effect of the facility on traffic pattern and flow.

(10) An estimate of the effect of the facility on total VMT for the air quality control region.

(11) Additional information, plans, specifications, or documents as required by the Administrator.

(g) If the Administrator or agency designated by him specifically so requests, the application shall also include an analysis of the effect of the facility on site and regional air quality, including a showing that the facility will be compatible with the applicable implementation plan, and that the facility will not cause any national air quality standard to be exceeded within 10 years from the date of application. The Administrator may prescribe a standardized screening technique to be used in analyzing the effect of the facility on ambient air quality.

(h) Each application shall be signed by the owner or operator of the facility, whose signature shall constitute an agreement that the facility shall be operated in accordance with applicable rules, regulations, permit conditions, and the design submitted in the application.

(i) Within 30 days after receipt of an application, the Administrator or agency approved by him shall notify the public, by prominent advertisement in the region

described in paragraph (b) of this section, of the receipt of the application and the proposed action on it (whether approval, conditional approval, or denial), and shall invite public comment.

(1) The application, all submitted information, and the terms of the proposed action shall be made available to the public in a readily accessible place within the area described in paragraph (b) of this section.

(2) Public comments submitted within 30 days of the date such information is made available shall be considered in making the final decision on the application.

(3) The Administrator or agency approved by him shall take final action (approval, conditional approval, or denial) on an application within 30 days after close of the public comment period.

(j) For any new parking facility with capacity for 50 to 249 motor vehicles, any facility which will be modified to increase parking capacity by 50 to 249 motor vehicles, and any facility constructed or modified in increments which individually are not subject to review under this paragraph, but which, when all such increments occurring since August 15, 1973 are added together, as a total would subject the facility to review under this paragraph, no person shall commence construction or modification without first furnishing to the Administrator or an agency designated by him, the information required by paragraphs (f)(1) through (f)(5) of this section. No approval will be required by the Administrator unless the determination specified in paragraph (k) of this section is made. This paragraph shall not apply to any proposed construction or modification for which a general construction contract was finally executed by all appropriate parties on or before August 15, 1973.

(k) If the Administrator, or an agency designated by him, determines, and gives prominent public notice of such determination, that construction of parking lots of 50 to 249 spaces (or modification of parking lots to add 50 to 249 spaces) in any geographical subdivision of the area specified in paragraph (b) of this section, is having or is likely to have a significant detrimental effect on the

control strategies in this transportation control plan or on air quality, he may require approval by him, or an agency designated by him, pursuant to the procedures in paragraph (d) through (i) of this section prior to construction of any additional such lots in such a subdivision. The Administrator shall approve an application unless he determines that the facility to be constructed would, either in itself or when viewed as part of a pattern of development, have a significant adverse impact on the applicable transportation control strategy.

§ 52.112 Control and prohibition of sources of photochemically reactive organic materials.

(a) Definitions

(1) "Standard Industrial Classification Major Group" shall mean that classification and major group assigned to an industry and published in the Standard Industrial Classification Manual, 1972, Executive Office of the President, Office of Management and Budget, Statistical Policy Division, Washington, D.C., 1972.

(2) "Photochemically Reactive Organic Materials" shall include any of the following:

(i) Hydrocarbons, alcohols, aldehydes, esters, or ketones, any of which has an olefinic or cyclo-olefinic type unsaturation,

(ii) Aromatic compounds with seven (7) or more carbon atoms,

(iii) Ketones having branched hydrocarbon structure,

(iv) Motor vehicle fuel with a true vapor pressure greater than 1.5 psia at 78° F,

(v) Organic solvents which have been in direct contact with flame in the presence of oxygen,

(vi) Compounds emitted from a process in which organic solvents are baked, heat cured, or heat polymerized in the presence of oxygen.

(b) This section is applicable in the Metropolitan Baltimore Intrastate AQCR.

(c) No person shall, after December 12, 1973, construct any source, or group of sources of the same Standard Industrial Classification Major Group owned or operated by the same person in the area designated in paragraph (b) of this section, which after complying with all other applicable provisions of the implementation plan for the Metropolitan Baltimore Intrastate Region (as approved and promulgated pursuant to Section 110 of the Clean Air Act of 1970), will discharge to the atmosphere more than 550 lbs. per day of photochemically reactive organic materials.

(d) No person shall, after December 12, 1973, cause, suffer, allow, or permit an increase in the average daily emissions of photochemically reactive organic material from any existing source, or group of sources, subject to the provisions of subsection .04J of 10.03.38 of the State of Maryland "Regulations Governing the Control of Air Pollution in Area III", which source, or group of sources, emits more than 550 pounds per day of photochemically reactive organic materials.

(e) Specifically exempted from the requirements of paragraph (c) of this section is new construction associated with the relocation or replacement of existing facilities subject to the provisions of subsection .04J of 10.03.38 of the State of Maryland "Regulations Governing the Control of Air Pollution in Area III", provided that emissions from said new construction will not exceed those allowed from existing facilities by paragraph (d) of this section.

[FR Doc. 73-26037 Filed 12-11-73; 8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Transportation Control Plan

Correction

In FR Doc. 73-23577 appearing at page 31232 in the issue for Monday, November 12, 1973, several paragraphs were inadvertently omitted from the first column on page 31234. As corrected the entire first column reads as set forth below.

Whether the National Ambient Air Quality Standard (NAAQS) for oxidant of 0.08 parts per million (ppm) for a 1-hour averaging time is an appropriate standard; and (2) if a socially disruptive measure such as extensive gasoline rationing is required to meet the NAAQS's for oxidant and carbon monoxide by 1977, whether the attainment date should be delayed beyond 1977.

The EPA, as required by the Clean Air Act, continuously reviews the medical basis for the NAAQS's. It is the Administrator's determination that to comply with the meaning of the Clean Air Act—that is, to protect public health with an adequate margin of safety—the 0.08 ppm standard for photochemical oxidant is a sound standard.

With regard to the second question, it is not within the authority of the EPA at the time of promulgation of this plan to extend attainment of the NAAQS's beyond 1977. The Clean Air Act specifically provides for no extension beyond 1977 for attainment of the standards unless the Governor of the State requests one under section 110(f) of the Act and shows in a formal hearing that there is no practical way to achieve the standards by 1977. In

that case, a further extension of no more than 1 year may be granted in appropriate circumstances.

Land use planning. Many persons who submitted either oral or written testimony on the proposed transportation control plans voiced strong support for land use policies that adequately take into account the environmental effects of proposed land use decisions. In particular, the subjects of urban sprawl and growth-inducing highway construction were commented upon repeatedly.

The Environmental Protection Agency believes that appropriate land use policies are the most effective means of protecting the environment, particularly over the long term.

Many land use decisions made today represent virtually irretrievable commitments of land and resources, and are often made without sufficient information on the environmental or social results of these decisions. Indeed, industries that were expected to expand the tax base have sometimes cost more to service than the amount of revenues they produced. These decisions, made in isolation from one another and in ignorance of their full effects (including the effects on air quality), have created much of the urban sprawl that has led to the need for transportation control plans. Many experts believe that the sprawling, low-density development patterns, which are fostered and accommodated by dependence on the automobile as the major form of transportation, are unduly wasteful of land, energy, and other resources, and have contributed to the decay of central cities. Comprehensive land use planning that takes air quality into account can eliminate the need for many such controls through placement of sources, proximity of employment and residential centers, and provision for mass transit and other measures.

Regulations that require land-use planning tied to air quality considerations were recently promulgated by EPA in response to a court order (38 FR 15834, June 18, 1973). These "indirect source" guidelines required each State to submit to EPA appropriate review proce-

dures, both long term and short term, to ensure the maintenance of the NAAQS in the future. The State of California has not submitted such review procedures to the EPA, although it is developing them. The Administrator has, therefore, proposed Federal regulations for the review of "indirect sources." These regulations will require the review for effect on air quality of all new large parking facilities, highways, airports, housing developments, and other development and/or construction that may increase automobile emissions because of increased vehicular travel.

The State of California Air Resources Board, under the direction of State Senate Bill 981, is developing an indirect source review procedure. The EPA believes that the review of indirect sources should be at the State and local level. Consequently, when the State submits an approvable procedure, the EPA will rescind any duplicating EPA regulations.

Review of new highway construction. Many comments were received on the continued construction of new highways. Urban sprawl is often precipitated by significant highway construction. Section 109(j) of the Federal Aid Highway Act, as amended, 23 U.S.C. 109(j), requires that any new Federally aided highways must be consistent with applicable implementation plans under the Clean Air Act. The "indirect sources" regulations or the State measures that regulations or the State measures that * * *.

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DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT

* * * *

TITLE I—SHORT TITLE, PURPOSES, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "District of Columbia Self-Government and Governmental Reorganization Act".

STATEMENT OF PURPOSES

SEC. 102. (a) Subject to the retention by Congress of the ultimate legislative authority over the Nation's Capital granted by article I, section 8, of the Constitution, the intent of Congress is to delegate certain legislative powers to the government of the District of Columbia; authorize the election of certain local officials by the registered qualified electors in the District of Columbia; grant to the inhabitants of the District of Columbia powers of local self-government, to modernize, reorganize, and otherwise improve the governmental structure of the District of Columbia; and, in the greatest extent possible, consistent with the constitutional mandate, relieve Congress of the burden of legislating upon essentially local District matters.

(b) Congress further intends to implement certain recommendations of the Commission on the Organization of the Government of the District of Columbia and take certain other actions irrespective of whether the charter for greater self-government provided for in title IV of this act is accepted or rejected by the registered qualified electors of the District of Columbia.

DEFINITIONS

SEC. 103. For the purposes of this Act—

(1) The term "District" means the District of Columbia.

(2) The term "Council" means the Council of the District of Columbia provided for by part A of title IV.

(3) The term "Commissioner" means the Commissioner of the District of Columbia established under Reorganization Plan Numbered 3 of 1967.

(4) The term "District of Columbia Council" means the Council of the District of Columbia established under Reorganization Plan Numbered 3 of 1967.

(5) The term "Chairman" means, unless otherwise provided in this Act, the Chairman of the Council provided for by part A of title IV.

(6) The term "Mayor" means the Mayor provided for by part B of title IV.

(7) The term "act" includes any legislation passed by the Council, except where the term "Act" is used to refer to this Act or other Acts of Congress herein specified.

(8) The term "capital project" means (A) any physical public betterment or improvement and any preliminary studies and surveys relative thereto; (B) the acquisition of property of a permanent nature; or (C) the purchase of equipment for any public betterment or improvement when first erected or acquired.

(9) The term "pending", when applied to any capital project, means authorized but not yet completed.

(10) The term "District revenues" means all funds derived from taxes, fees, charges, and miscellaneous receipts, including all annual Federal payments to the District authorized by law, and from the sale of bonds.

(11) The term "election", unless the context otherwise provides, means an election held pursuant to the provisions of this Act.

(12) The terms "publish" and "publication", unless otherwise specifically provided herein, mean publication in a newspaper of general circulation in the District.

(13) The term "District of Columbia courts" means the Superior Court of the District of Columbia and the District of Columbia Court of Appeals.

(14) The term "resources" means revenues, balances, revolving funds, funds realized from borrowing, and the District share of Federal grant programs.

(15) The term "budget" means the entire request for appropriations and loan or spending authority for all activities of all agencies of the District financed from all existing or proposed resources and shall include both operating and capital expenditures.

TITLE II—GOVERNMENTAL REORGANIZATION

REDEVELOPMENT LAND AGENCY

SEC. 201. The District of Columbia Redevelopment Act of 1946 (D.C. Code, secs. 5-701—5-719) is amended as follows:

(a) Subsection (a) of section 4 of such Act (D.C. Code, sec. 5-703(a)) is amended to read as follows:

"(a) The District of Columbia Redevelopment Land Agency is hereby established as an instrumentality of the District of Columbia government, and shall be composed of five members appointed by the Commissioner of the District of Columbia (hereinafter referred to as the 'Commissioner'), with the advice and consent of the Council of the District of Columbia (hereinafter referred to as the 'Council'). The Commissioner shall name one member as chairman. No more than two members may be officers of the District of Columbia government. Each member shall serve for a term of five years except that of the members first appointed under this section, one shall serve for a term of one year, one shall serve for a term of two years, one shall serve for a term of three years, one shall serve for a term of four years, and one shall serve for a term of five years, as designated by the Commissioner. The terms of the members first appointed under this section shall begin on or after January 2,

1975. Should any member who is an officer of the District of Columbia government cease to be such an officer, then his term as a member shall end on the day he ceases to be such an officer. Any person appointed to fill a vacancy in this Agency shall be appointed to serve for the remainder of the term during which such vacancy arose. Any member who holds no other salaried public position shall receive compensation at the rate of $100 for each day such member is engaged in the actual performance of duties vested in the agency."

(b) Subsection (b) of section 4 of such Act (D.C. Code, sec. 5-703(b)) is amended—

(1) by inserting after "forth" at the end of the first sentence of such section ", except that nothing in this section shall prohibit the District of Columbia government from dissolving the corporation, eliminating the board of directors, or taking such other action with respect to the powers and duties of such Agency, including those actions specified in subsection (c), as is deemed necessary and appropriate", and

(2) by striking out in the second sentence "including the selection of its chairman and other officers," and inserting in lieu thereof "including the selection of officers other than its chairman,".

(c) Section 4 of such Act is amended by adding at the end thereof the following new subsection:

"(c) The Council is authorized, by act, to adopt legislation—

"(1) establishing, for the purpose of assuring uniform procedures relating to the disposition of complaints and other claims involving the Redevelopment Land Agency (or its successor) and other administrative units of the District of Columbia government, a factfinding board to receive, hear, and act on such complaints and claims arising out of or in connection with administrative and other actions of such Agency or units in carrying out their powers and functions;

"(2) providing that all planning, designing, construction, and supervision of public facilities which are to be contributed to any redevelopment area as the local non-

cash grant-in-aid to the project under title I of the Housing Act of 1949, shall, to the extent practicable, be carried out by an appropriate District of Columbia department or agency on the basis of a contractual or other arrangement with the Redevelopment Land Agency or its successor.

"(3) providing that any occupied rental property owned by the Agency shall be maintained by such Agency (or its successor) in a safe and sanitary condition; or

"(4) providing that the Commissioner shall have authority to waive all or any part of any special assessments levied against abutting property owners for the cost of sewers, streets, curbs, gutters, sidewalks, utilities, and other supporting facilities or project improvements where the costs therefor to the District of Columbia can be applied as a non-cash local grant-in-aid, as defined by the Secretary of the Department of Housing and Urban Development.".

(d) The first sentence of subsection (b) of section 5 of such Act (D.C. Code, sec. 5-704(b)) is amended to read as follows "Condemnation proceedings for the acquisition of real property for said purposes shall be conducted in accordance with subchapter II of chapter 13 of title 16 of the District of Columbia Code".

(e) None of the amendments contained in this section shall be construed to affect the eligibility of the District of Columbia Redevelopment Land Agency to continue participation in the small business procurement programs under section 8(a) of the Small Business Act (67 Stat. 547).

(f) For the purposes of subsection 713(d), employees in the District of Columbia Redevelopment Land Agency shall be deemed to be transferred to the District of Columiba as of the effective date of this title without a break in service.

NATIONAL CAPITAL HOUSING AUTHORITY

SEC. 202. (a) The National Capital Housing Authority (hereinafter referred to as the "Authority") established under the District of Columbia Alley Dwelling Act (D.C.

Code, secs. 5-103—5-116) shall be an agency of the District of Columbia government subject to the organizational and reorganizational powers specified in sections 404(b) and 422(12) of this Act.

(b) All functions, powers, and duties of the President under the District of Columbia Alley Dwelling Act shall be vested in and exercised by the Commissioner. All employees, property (real and personal), and unexpended balances (available or to be made available) of appropriations, allocations, and all other funds, and assets and liabilities of the Authority are authorized to be transferred to the District of Columbia government.

NATIONAL CAPITAL PLANNING COMMISSION AND MUNICIPAL PLANNING

SEC. 203. (a) Subsections (a) and (b) of section 2 of the Act entitled "An Act providing for a comprehensive development of the park and playground system of the National Capital", approved June 6, 1924 (D.C. Code, sec. 1-1002), are amended to read as follows:

"(a)(1) The National Capital Planning Commission (hereinafter referred to as the 'Commission') is created as the central Federal planning agency for the Federal Government in the National Capital, and to preserve the important historical and natural features thereof, except with respect to the United States Capitol buildings and grounds as defined in sections 1 and 16 of the Act of July 31, 1946 (40 U.S.C. 193a, 193m) [D.C. Code, secs. 9-118, 9-132], and to any extension thereof or additions thereto, or to buildings and grounds under the care of the Architect of the Capitol.

"(2) The Commissioner of the District of Columbia (hereinafter referred to as the 'Commissioner') shall be the central planning agency for the government of the District of Columbia (hereinafter referred to as the 'District') in the National Capital. The Commissioner shall be responsible for coordinating the planning activities of the District government and for preparing and implementing the District elements of the comprehensive plan

for the National Capital, which may include, land use elements, urban renewal and redevelopment elements, a multiyear program of public works for the District, and physical, social, economic, transportation, and population elements. The Commissioner's planning responsibility shall not extend to Federal or international projects and developments in the District, as determined by the Commission, or to the United States Capitol buildings and grounds as defined in sections 1 and 16 of the Act of July 31, 1946 (40 U.S.C. 193a, 193m) [D.C. Code, secs. 9-118, 9-132], or to any extension thereof or additions thereto, or to buildings and grounds under the care of the Architect of the Capitol. In carrying out his responsibility under this section, the Commissioner shall establish procedures for citizen participation in the planning process, and for appropriate meaningful consultation with any State or local government or planning agency in the National Capital region affected by any aspect of a comprehensive plan (including amendments thereto) affecting or relating to the District.

"(3) The Commissioner shall submit each District element of the comprehensive plan and any amendment thereto, to the Council for revision or modification, and adoption, by act, following public hearings. Following adoption and prior to implementation, the Council shall submit each such element or amendment to the Commission for review and comment with regard to the impact of such element or amendment on the interests or functions of the Federal Establishment in the National Capital.

"(4)(A) The Commission shall, within sixty days after receipt of such a District element of the comprehensive plan or amendment thereto, from the Council, certify to the Council whether such element or amendment has a negative impact on the interests or functions of the Federal Establishment in the National Capital. If within such sixty days the Commission takes no action with respect to such element or amendment, such element or amendment shall be deemed to have no such negative impact, and such element or amendment shall be incor-

porated into the comprehensive plan for the National Capital and shall be implemented.

"(B) If the Commission finds, within such sixty days, such negative impact, it shall certify its findings and recommendations with respect to such negative impact to the Council. Upon receipt of the Commission's findings and recommendations, the Council may—

"(i) reject such findings and recommendations and resubmit such element or amendment, in a modified form, to the Commission for reconsideration; or

"(ii) accept such findings and recommendations and modify such element or amendment accordingly. If the Council accepts such findings and recommendations and modifies such element or amendment under clause (ii), the Council shall submit such element or amendment to the Commission for it to determine whether such modification has been made in accordance with the Commission's findings and recommendations. If, within thirty days after receipt of the modified element or amendment, the Commission takes no action with respect to such element or amendment, it shall be deemed to have been modified in accordance with such findings or recommendations, and shall be incorporated into the comprehensive plan for the National Capital and shall be implemented. If within such thirty days, the Commission again determines such element or amendment to have a negative impact on the functions or interests of the Federal Establishment in the National Capital such element or amendment shall not be implemented.

"(C) If the Council rejects the findings and recommendations of the Commission and resubmits a modified element or amendment to it under clause (i), the Commission shall, within sixty days after receipt of such modified element or amendment from the Council, determine whether such modified element or amendment has a negative impact on the interests or functions of the Federal Establishment within the National Capital. If the Commission finds such negative impact it shall certify its findings (in sufficient detail that the Council can understand the basis of the objection of the Commission) and recommendations to the Council, and such element or

amendment shall not be implemented. If the Commission takes no action with respect to such modified element or amendment within such sixty days, such modified element or amendment shall be deemed to have no such negative impact and shall be incorporated into the comprehensive plan and it shall be implemented. Any element or amendment which the Commission has determed to have a negative impact on the Federal Establishment in the National Capital, and which is submitted again in a modified form not less than one year from the day it was last rejected by the Commission shall be deemed to be a new element or amendment for purposes of the review procedure specified in this section.

"(D) The Commission and the Commissioner shall jointly publish from time to time as appropriate, a comprehensive plan for the National Capital, consisting of the elements of the comprehensive plan for the Federal activities in the National Capital developed by the Commission, and the District elements developed by the Commissioner and the Council in accordance with the provisions of this section.

"(E) The Council may grant, upon request made to it by the Commission, an extension of any time limitation contained in this section.

"(F) The Commission and the Commissioner shall jointly establish procedures for appropriate meaningful continuing consultation throughout the planning process for the National Capital.

"(b) The National Capital Planning Commission shall be composed of—

"(1) ex officio, the Secretary of the Interior, the Secretary of Defense, the Administrator of the General Services Administration, the Commissioner, the Chairman of the District of Columbia Council, and the chairmen of the Committees on the District of Columbia of the Senate and the House of Representatives, or such alternates as each such person may from time to time designate to serve in his stead and in addition,

"(2) five citizens with experience in city or regional planning, three of whom shall be appointed by the Presi-

dent and two of whom shall be appointed by the Commissioner. The citizen members appointed by the Commissioner shall be bona fide residents of the District of Columbia and of the three appointed by the President at least one shall be a bona fide resident of Virginia and at least one shall be a bona fide resident of Maryland. The terms of office of members appointed by the President shall be for six years, except that of the members first appointed, the President shall designate one to serve two years and one to serve four years. Members appointed by the Commissioner shall serve for four years. The members first appointed under this section shall assume their office on January 2, 1975. Any person appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. The citizen members shall each receive compensation at the rate of $100 for each day such member is engaged in the actual performance of duties vested in the Commission in addition to reimbursement for necessary expenses incurred by them in the performance of such duties".

(b) Subsection (e) of section 2 of such Act of June 6, 1924 (D.C. Code, sec. 1-1002(e)), is amended by (1) inserting "Federal activities in the" immediately before "National Capital" in clause (1); and (2) striking out "and District Governments," and inserting in lieu thereof "government" in clause (2).

(c) Section 4 of such Act of June 6, 1924 (D.C. Code, sec. 1-1004), is amended as follows:

(1) The first sentence of subsection (a) of such section is amended to read as follows: "The Commission is hereby charged with the duty of preparing and adopting a comprehensive, consistent, and coordinated plan for the National Capital, which plan shall include the Commission's recommendations or proposals for Federal developments or projects in the environs, and those District elements, or amendments thereto, of the comprehensive plan adopted by the Council and with respect to which the Commission has not determined a negative impact to exist, which elements or amendments shall be incorporated into such comprehensive plan without change".

(2) The third sentence of subsection (a) of such section is amended by striking out "within the District of Columbia" and "or District".

(3) Subsections (b) and (c) of such section are repealed.

(d) Section 5 of such Act of June 6, 1924 (D.C. Code, sec. 1-1005), is amended as follows:

(1) Subsection (c) of such section is amended to read as follows:

"(c) The provisions of section 16 of the Act approved June 20, 1938 (D.C. Code, sec. 5-428), are extended to include public buildings erected by any agency of the Government of the District of Columbia within the boundaries of the central area of the District, as such central area may be defined and from time to time redefined by concurrent action of the Commission and the Council, except that the Commission shall transmit its approval or disapproval respecting any such building within thirty days after the day it was submitted to the Commission".

(2) The first and second sentences of subsection (e) of such section are amended to read as follows: "It is the intent of this section to obtain cooperation and correlation of effort between the various agencies of the Federal Government which are responsible for public developments and projects, including the acquisition of lands. These agencies, therefore, shall look to the Commission and utilize it as the central planning agency for the Federal activities in the National Capital region.".

(e) Section 6 of such Act (D.C. Code, sec. 1-1006) is repealed.

(f) Section 7 of such Act (D.C. Code, sec. 1-1007) is amended to read as follows:

"SEC. 7. (a) The Commission shall recommend a six-year program of public works projects for the Federal Government which it shall review annually with the agencies concerned. To this end, each Federal agency shall submit to the Commission in the first quarter of

each fiscal year a copy of its advance program of capital improvements within the National Capital and its environs.

"(b) The Commissioner shall submit to the Commission, by February 1 of each year, a copy of the multiyear capital improvements plan for the District developed by him under section 444 of the District of Columbia Self-Government and Governmental Reorganization Act. The Commission shall have thirty days within which to comment upon such plan but shall have no authority to change or disapprove of such plan."

(g) The first sentence of subsection (a) of section 8 of such Act of June 6, 1924 (D.C. Code, sec. 1-1008(a)), is amended to read as follows: "The Commission may make a report and recommendation to the Zoning Commission of the District of Columbia, as provided in section 5 of the Act of March 1, 1920 (D.C. Code, sec. 5-417), on proposed amendments of the zoning regulations and maps as to the relation, conformity, or consistency of such amendments with the comprehensive plan for the National Capital."

DISTRICT OF COLUMBIA MANPOWER ADMINISTRATION

SEC. 204. (a) All functions of the Secretary of Labor (hereafter in this section referred to as the "Secretary") under section 3 of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (29 U.S.C. 49-49k), with respect to the maintenance of a public employment service for the District, are transferred to the Commissioner. After the effective date of this transfer, the Secretary shall maintain with the District the same relationship with respect to a public employment service in the District, including the financing of such service, as he has with the States (with respect to a public employment service in the States) generally.

(b) The Commissioner is authorized and directed to establish and administer a public employment service in the District and to that end he shall have all necessary

powers to cooperate with the Secretary in the same manner as a State under the Act of June 6, 1933, specified in subsection (a).

(c)(1) Section 3(a) of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system and for other purposes", approved June 6, 1933 (29 U.S.C. 49b(a)), is amended by striking out "to maintain a public employment service for the District of Columbia".

(2) Section 3(b) of such Act (29 U.S.C. 49b(b) is amended by inserting "the District of Columbia," immediately after "Guam,".

(d) All functions of the Secretary and of the Director of Apprenticeship under the Act entitled "An Act to provide for voluntary apprenticeship in the District of Columbia", approved May 20, 1946 (D.C. Code, secs. 36-121—36-123), are transferred to and shall be exercised by the Commissioner. The office of Director of Apprenticeship provided for in section 3 of such Act (D.C. Code, sec. 36-123) is abolished.

(e) All functions of the Secretary under chapter 31 of title 5 of the United States Code, with respect to the processing of claims filed by employees of the Government of the District for compensation for work injuries, are transferred to and shall be exercised by the Commissioner, effective the day after the day on which the District establishes an independent personnel system or systems.

(f) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available in connection with functions transferred to the Commissioner by the provisions of this section, as the Director of the Federal Office of Management and Budget shall determine, are authorized to be transferred from the Secretary to the Commissioner.

(g) Any employee in the competitive service of the United States transferred to the government of the District under the provisions of this section shall retain all

the rights, benefits, and privileges pertaining thereto held prior to such transfer.

(h) The first section of the Act of August 16, 1937 (29 U.S.C. 50 et seq.) (relating to the welfare of apprentices), is amended by inserting at the end thereof "For the purposes of this Act the term 'State' shall include the District of Columbia.". (Amended Aug. 29, 1974, Pub. L. 93-395, § 1(1), 88 Stat. 793.)

TITLE III—DISTRICT CHARTER PREAMBLE LEGISLATIVE POWER, AND CHARTER AMENDING PROCEDURE

DISTRICT CHARTER PREAMBLE

SEC. 301. The charter for the District of Columbia set forth in title IV shall establish the means of governance of the District following its acceptance by a majority of the registered qualified electors of the District voting thereon in the charter referendum held with respect thereto.

LEGISLATIVE POWER

SEC. 302. Except as provided in sections 601, 602, and 603, the legislative power of the District shall extend to all rightful subjects of legislation within the District consistent with the Constitution of the United States and the provisions of this Act subject to all the restrictions and limitations imposed upon the States by the tenth section of the first article of the Constitution of the United States.

CHARTER AMENDING PROCEDURE

SEC. 303. (a) The charter set forth in title IV (including any provision of law amended by such title), except sections 401(a) and 421(a), and part C of such title, may be amended by an act passed by the Council and ratified by a majority of the registered qualified electors of the District voting in the referendum held for such ratification. The Chairman of the Council shall submit all such acts to Speaker of the House of Representatives and the President of the Senate on the day the Board of Elections certifies that such act was ratified by a majority of the registered qualified electors voting thereon in such referendum.

(b) An amendment to the charter ratified by the registered qualified electors shall take effect only if within thirty-five calendar days (excluding Saturdays, Sundays, holidays, and days on which either House of Congress is not in session) of the date such amendment was submitted to the Congress both Houses of Congress adopt a concurrent resolution, according to the procedures specified in section 604 of this Act, approving such amendment.

(c) The Board of Elections shall prescribe such rules as are necessary with respect to the distribution and signing of petitions and the holding of elections for ratifying amendments to title IV of this Act according to the procedures specified in subsection (a).

(d) The amending procedure provided in this section may not be used to enact any law or affect any law with respect to which the Council may not enact any act, resolution, or rule under the limitations specified in sections 601, 602, and 603.

TITLE IV—THE DISTRICT CHARTER

PART A—THE COUNCIL

Subpart 1—Creation of the Council

CREATION AND MEMBERSHIP

SEC. 401. (a) There is established a Council of the District of Columbia; and the members of the Council shall be elected by the registered qualified electors of the District.

(b)(1) The Council established under subsection (a) shall consist of thirteen members elected on a partisan

basis. The Chairman and four members shall be elected at large in the District, and eight members shall be elected one each from the eight election wards established, from time to time, under the District of Columbia Election Act. The term of office of the members of the Council shall be four years, except as provided in paragraph (3), and shall begin at noon on January 2 of the year following their election.

(2) In the case of the first election held for the office of member of the Council after the effective date of this title, not more than two of the at-large members (excluding the Chairman) shall be nominated by the same political party. Thereafter, a political party may nominate a number of candidates for the office of at-large member of the Council equal to one less than the total number of at-large members (excluding the Chairman) to be elected in such election.

(3) To fill a vacancy in the Office of Chairman, the Board of Elections shall hold a special election in the District on the first Tuesday occurring more than one hundred and fourteen days after the date on which such vacancy occurs, unless the Board of Elections determines that such vacancy could be more practicably filled in a special election held on the same day as the next general election to be held in the District occurring within sixty days of the date on which a special election would otherwise have been held under the provisions of this paragraph. The person elected Chairman to fill a vacancy in the Office of Chairman shall take office on the day in which the Board of Elections certifies his election, and shall serve as Chairman only for the remainder of the term during which such vacancy occurred. When the Office of Chairman becomes vacant, the Council shall select one of the elected at-large members of the Council to serve as Chairman and one to serve as Chairman pro tempore until the election of a new Chairman.

(4) Of the members first elected after the effective date of this title, the Chairman and two members elected at-large and four of the members elected from election wards shall serve for four-year terms; and two of the at-large members and four of the members elected from election wards shall serve for two-year terms. The members to serve the four-year terms and the members to serve the two-year terms shall be determined by the Board of Elections by lot, except that not more than one of the at-large members nominated by any political party shall serve for any such four-year term.

(c) The Council may establish and select such other officers and employees as it deems necessary and appropriate to carry out the functions of the Council.

(d) (1) In the event of a vacancy in the Council of a member elected from a ward, the Board of Elections shall hold a special election in such ward to fill such vacancy on the first Tuesday occurring more than one hundred and fourteen days after the date on which such vacancy occurs, unless the Board of E[illegible]ions determines that such vacancy could be more practicably filled in a special election held on the same day as the next general election to be held in the District occurring within sixty days of the date on which a special election would otherwise have been held under the provisions of this subsection. The person elected as a member to fill a vacancy on the Council shall take office on the day on which the Board of Elections certifies his election, and shall serve as a member of the Council only for the remainder of the term during which such vacancy occurred.

(2) In the event of a vacancy in the office of Mayor, and if the Chairman becomes a candidate for the office of Mayor to fill such vacancy, the office of Chairman shall be deemed vacant as of the date of the filing of his candidacy. In the event of a vacancy in the Council of a member elected at large, other than a vacancy in the office of Chairman, who is affiliated with a political party, the central committee of such political party shall appoint a person to fill such vacancy, until the Board of Elections can hold a special election to fill such vacancy, and such special election shall be held on the first Tuesday occurring more than one hundred and fourteen days after the date on which such vacancy occurs unless the Board of Elections determines that such vacancy could be more practicably filled in a special election held on

the same day as the next general election to be held in the District occurring within sixty days of the date on which a special election would otherwise be held under the provision of this subsection. The person appointed to fill such vacancy shall take office on the date of his appointment and shall serve as a member of the Council until the day on which the Board certifies the election of the member elected to fill such vacancy in either a special election or a general election. The person elected as a member to fill such a vacancy on the Council shall take office on the day on which the Board of Elections certifies his election, and shall serve as a member of the Council only for the remainder of the term during which such vacancy occurred. With respect to a vacancy on the Council of a member elected at large who is not affiliated with any political party, the Council shall appoint a similarly nonaffiliated person to fill such vacancy until such vacancy can be filled in a special election in the manner prescribed in this paragraph. Such person appointed by the Council shall take office and serve as a member at the same time and for the same term as a member appointed by a central committee of a political party.

(3) Notwithstanding any other provision of this section, at no time shall there be more than three members (including the Chairman) serving at large on the Council who are affiliated with the same political party. (Amended Aug. 29, 1974, Pub. L. 93-395, § 1(2), 88 Stat. 793.)

QUALIFICATIONS FOR HOLDING OFFICE

SEC. 402. No person shall hold the office of member of the Council, including the office of Chairman, unless he (a) is a qualified elector, (b) is domiciled in the District and if he is nominated for election from a particular ward, resides in the ward from which he is nominated, (c) has resided and been domiciled in the District for one year immediately preceding the day on which the general or special election for such office is to be held, and (d) holds no public office (other than his employment in and position as a member of the Council), for

which he is compensated in an amount in excess of his actual expenses in connection therewith, except that nothing in this clause shall prohibit any such person, while a member of the Council, from serving as a delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States, or from holding an appointment in a Reserve component of an armed force of the United States other than a member serving on active duty under a call for more than thirty days. A member of the Council shall forfeit his office upon failure to maintain the qualifications required by this section, and, in the case of the Chairman, section 403(c).

COMPENSATION

SEC. 403. (a) Each member of the Council shall receive compensation, payable in periodic installments, at a rate equal to the maximum rate as may be established from time to time for grade 12 of the General Schedule under section 5332 of title 5 of the United States Code. On and after the end of the two-year period beginning on the day the members of the Council first elected under this Act take office, the Council may, by act, increase or decrease such rate of compensation. Such change in compensation, upon enactment by the Council in accordance with the provisions of this Act, shall apply with respect to the term of members of the Council beginning after the date of enactment of such change.

(b) All members of the Council shall receive additional allowances for actual and necessary expenses incurred in the performance of their duties of office as may be approved by the Council.

(c) The Chairman shall receive, in addition to the compensation to which he is entitled as a member of the Council, $10,000 per annum, payable in equal installments, for each year he serves as Chairman, but the Chairman shall not engage in any employment (whether as an employee or as a self-employed individual) or hold any position (other than his position as Chairman), for which he is compensated in an amount in excess of his actual expenses in connection therewith.

POWERS OF THE COUNCIL

SEC. 404. (a) Subject to the limitations specified in title VI of this Act, the legislative power granted to the District by this Act is vested in and shall be exercised by the Council in accordance with this Act. In addition, except as otherwise provided in this Act, all functions granted to or imposed upon, or vested in or transferred to the District of Columbia Council, as established by Reorganization Plan Numbered 3 of 1967, shall be carried out by the Council in accordance with the provisions of this Act.

(b) The Council shall have authority to create, abolish, or organize any office, agency, department, or instrumentality of the government of the District and to define the powers, duties, and responsibilities of any such office, agency, department, or instrumentality.

(c) The Council shall adopt and publish rules of procedures which shall include provisions for adequate public notification of intended actions of the Council.

(d) Every act shall be published and codified upon becoming law as the Council may direct.

(e) An act passed by the Council shall be presented by the Chairman of the Council to the Mayor, who shall, within ten calendar days (excluding Saturdays, Sundays, and holidays) after the act is presented to him, either approve or disapprove such act. If the Mayor shall approve such act, he shall indicate the same by affixing his signature thereto, and such act shall become law subject to the provisions of section 602(c). If the Mayor shall disapprove such act, he shall, within ten calendar days (excluding Saturdays, Sundays, and holidays) after it is presented to him, return such act to the Council setting forth in writing his reasons for such disapproval. If any act so passed shall not be returned to the Council by the Mayor within ten calendar days after it shall have been presented to him, the Mayor shall be deemed to have approved it, and such act shall become law subject to the provisions of section 602(c). If, within thirty calendar days after an act has been timely returned by the Mayor

to the Council with his disapproval, two-thirds of the members of the Council present and voting vote to reenact such act, the act so reenacted shall be transmitted by the Chairman to the President of the United States. Subject to the provisions of section 602(c), such act, except any act of the Council submitted to the President in accordance with the Budget and Accounting Act, 1921 [31 U.S.C. 1 et seq.], shall become law at the end of the thirty day period beginning on the date of such transmission, unless during such period the President disapproves such act.

(f) In the case of any budget act adopted by the Council pursuant to section 446 of this Act and submitted to the Mayor in accordance with subsection (e) of this section, the Mayor shall have power to disapprove any items or provisions, or both, of such act and approve the remainder. In any case in which the Mayor so disapproves of any item or provision, he shall append to the act when he signs it a statement of the item or provision which he disapproves, and shall, within such ten-day period, return a copy of the act and statement with his objections to the Council. If, within thirty calendar days after any such item or provision so disapproved has been timely returned by the Mayor to the Council, two-thirds of the members of the Council present and voting vote to reenact any such item or provision, such item or provision so reenacted shall be transmitted by the Chairman to the President of the United States. In any case in which the Mayor fails to timely return any such item or provision so disapproved to the Council, the Mayor shall be deemed to have approved such item or provision not returned, and such item or provision not returned shall be transmitted by the Chairman to the President of the United States.

Subpart 2—Organization and Procedure of the Council

THE CHAIRMAN

SEC. 411. (a) The Chairman shall be the presiding officer of the Council.

(b) When the Office of Mayor is vacant, the Chairman shall act in his stead. While the Chairman is Acting Mayor he shall not exercise any of his authority as Chairman or member of the Council.

ACTS, RESOLUTIONS, AND REQUIREMENTS FOR QUORUM

SEC. 412. (a) The Council, to discharge the powers and duties imposed herein, shall pass acts and adopt resolutions, upon a vote of a majority of the members of the Council present and voting, unless otherwise provided in this Act or by the Council. The Council shall use acts for all legislative purposes. Each proposed act shall be read twice in substantially the same form, with at least thirteen days intervening between each reading. Upon final adoption by the Council each act shall be made immediately available to the public in a manner which the Council shall determine. If the Council determines, by a vote of two-thirds of the members, that emergency circumstances make it necessary that an act be passed after a single reading, or that it take effect immediately upon enactment, such act shall be effective for a period of not to exceed ninety days. Resolutions shall be used to express simple determinations, decisions, or directions of the Council of a special or temporary character.

(b) A special election may be called by resolution of the Council to present for an advisory referendum vote of the people any proposition upon which the Council desires to take action.

(c) A majority of the Council shall constitute a quorum for the lawful convening of any meeting and for the transaction of business of the Council, except a lesser number may hold hearings.

INVESTIGATIONS BY THE COUNCIL

SEC. 413. (a) The Council, or any committee or person authorized by it, shall have power to investigate any matter relating to the affairs of the District, and for that purpose may require the attendance and testimony of

witnesses and the production of books, papers, and other evidence. For such a purpose any member of the Council (if the Council is conducting the inquiry) or any member of the committee may issue subpenas and administer oaths upon resolution adopted by the Council or committee, as appropriate.

(b) In case of contumacy by, or refusal to obey a subpena issued to, any person, the Council by resolution may refer the matter to the Superior Court of the District of Columbia, which may by order require such person to appear and give or produce testimony or books, papers, or other evidence, bearing upon the matter under investigation. Any failure to obey such order may be punished by such Court as a contempt thereof as in the case of failure to obey a subpena issued, or to testify, in a case pending before such Court.

PART B—THE MAYOR

ELECTION, QUALIFICATIONS, VACANCY, AND COMPENSATION

SEC. 421. (a) There is established the office of Mayor of the District of Columbia; and the Mayor shall be elected by the registered qualified electors of the District.

(b) The Mayor established by subsection (a) shall be elected, on a partisan basis, for a term of four years beginning at noon on January 2 of the year following his election.

(c) (1) No person shall hold the Office of Mayor unless he (A) is a qualified elector, (B) has resided and been domiciled in the District for one year immediately preceding the day on which the general or special election for Mayor is to be held, and (C) is not engaged in any employment (whether as an employee or as a self-employed individual) and holds no public office or position (other than his employment in and position as Mayor), for which he is compensated in an amount in excess of his actual expenses in connection therewith, except that nothing in this clause shall be construed as prohibiting such person, while holding the Office of Mayor, from serv-

ing as a delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States or from holding an appointment in a reserve component of an armed force of the United States other than a member serving on active duty under a call for more than thirty days. The Mayor shall forfeit his office upon failure to maintain the qualifications required by this paragraph.

(2) To fill a vacancy in the Office of Mayor, the Board of Elections shall hold a special election in the District on the first Tuesday occurring more than one hundred and fourteen days after the date on which such vacancy occurs, unless the Board of Elections determines that such vacancy could be more practicably filled in a special election held on the same day as the next general election to be held in the District occurring within sixty days of the date on which a special election would otherwise have been held under the provisions of this paragraph. The person elected Mayor to fill a vacancy in the Office of Mayor shall take office on the day on which the Board of Elections certifies his election, and shall serve as Mayor only for the remainder of the term during which such vacancy occurred. When the Office of Mayor becomes vacant the Chairman shall become Acting Mayor and shall serve from the date such vacancy occurs until the date on which the Board of Elections certifies the election of the new Mayor at which time he shall again become Chairman. While the Chairman is Acting Mayor, the Chairman shall receive the compensation regularly paid the Mayor, and shall receive no compensation as Chairman or member of the Council. While the Chairman is Acting Mayor, the Council shall select one of the elected at-large members of the Council to serve as Chairman and one to serve as chairman pro tempore, until the return of the regularly elected Chairman.

(d) The Mayor shall receive compensation payable in equal installments, at a rate equal to the maximum rate, as may be established from time to time, for level III of the Executive Schedule in section 5314 of title 5 of the United States Code. Such rate of compensation may be

increased or decreased by act of the Council. Such change in such compensation, upon enactment by the Council in accordance with the provisions of this Act, shall apply with respect to the term of Mayor next beginning after the date of such change. In addition, the Mayor may receive an allowance, in such amount as the Council may from time to time establish, for official, reception, and representation expenses, which he shall certify in reasonable detail to the Council.

POWERS AND DUTIES

SEC. 422. The executive power of the District shall be vested in the Mayor who shall be the chief executive officer of the District government. In addition, except as otherwise provided in this Act, all functions granted to or vested in the Commissioner of the District of Columbia, as established under Reorganization Plan Numbered 3 of 1967, shall be carried out by the Mayor in accordance with this Act. The Mayor shall be responsible for the proper execution of all laws relating to the District, and for the proper administration of the affairs of the District coming under his jurisdiction or control, including but not limited to the following powers, duties, and functions:

(1) The Mayor may designate the officer or officers of the executive department of the District who may, during periods of disability or absence from the District of the Mayor execute and perform the powers and duties of the Mayor.

(2) The Mayor shall administer all laws relating to the appointment, promotion, discipline, separation, and other conditions of employment of personnel in the office of the Mayor, personnel in executive departments of the District, and members of boards, commissions, and other agencies, who, under laws in effect on the date immediately preceding the effective date of section 711(a) of this Act, were subject to appointment and removal by the Commissioner of the District of Columbia. All actions affecting such personnel and such members shall,

until such time as legislation is enacted by the Council superseding such laws and establishing a permanent District government merit system, pursuant to paragraph (3), continue to be subject to the provisions of Acts of Congress relating to the appointment, promotion, discipline, separation, and other conditions of employment applicable to officers and employees of the District government, to section 713(d) of this Act, and where applicable, to the provisions of the joint agreement between the Commissioners and the Civil Service Commission authorized by Executive Order Numbered 5491 of November 18, 1930, relating to the appointment of District personnel. He shall appoint or assign persons to positions formerly occupied, ex-officio, by the Commissioner of the District of Columbia or by the Assistant to the Commissioner and shall have power to remove such persons from such positions. The officers and employees of each agency with respect to which legislative power is delegated by this Act and which immediately prior to the effective date of section 711(a) of this Act, was not subject to the administrative control of the Commissioner of the District, shall continue to be appointed and removed in accordance with applicable laws until such time as such laws may be superseded by legislation passed by the Council establishing a permanent District government merit system pursuant to paragraph (3).

(3) The Mayor shall administer the personnel functions of the District covering employees of all District departments, boards, commissions, offices and agencies, except as otherwise provided by this Act. Personnel legislation enacted by Congress prior to or after the effective date of this section, including, without limitation, legislation relating to appointments, promotions, discipline, separations, pay, unemployment compensation, health, disability and death benefits, leave, retirement, insurance, and veterans' preference applicable to employees of the District government as set forth in section 714(c), shall continue to be applicable until such time as the Council shall, pursuant to this section, provide for coverage under a District government merit system. The District government merit system shall be established by act of the

Council. The system may provide for continued participation in all or part of the Federal Civil Service System and shall provide for persons employed by the District government immediately preceding the effective date of such system personnel benefits, including but not limited to pay tenure, leave, residence, retirement, health and life insurance, and employee disability and death benefits, all at least equal to those provided by legislation enacted by Congress, or regulation adopted pursuant thereto, and applicable to such officers and employees immediately prior to the effective date of the system established pursuant to this Act. The District government merit system shall take effect not earlier than one year nor later than five years after the effective date of this section.

(4) The Mayor shall, through the heads of administrative boards, offices, and agencies, supervise and direct the activities of such boards, offices, and agencies.

(5) The Mayor may submit drafts of acts to the Council.

(6) The Mayor may delegate any of his functions (other than the function of approving or disapproving acts passed by the Council or the function of approving contracts between the District and the Federal Government under section 731) to any officer, employee, or agency of the executive office of the Mayor, or to any director of an executive department who may, with the approval of the Mayor, make a further delegation of all or a part of such functions to subordinates under his jurisdiction.

(7) The Mayor shall appoint a City Administrator, who shall serve at the pleasure of the Mayor. The City Administrator shall be the chief administrative officer of the Mayor, and he shall assist the Mayor in carrying out his functions under this Act, and shall perform such other duties as may be assigned to him by the Mayor. The City Administrator shall be paid at a rate established by the Mayor, not to exceed level IV of the Executive Schedule established under section 5315 of title 5 of the United States Code.

(8) The Mayor may propose to the executive or legislative branch of the United States Government legislation or other action dealing with any subject whether or not falling within the authority of the District government, as defined in this Act.

(9) The Mayor, as custodian thereof, shall use and authenticate the corporate seal of the District in accordance with law.

(10) The Mayor shall have the right, under rules to be adopted by the Council, to be heard by the Council or any of its committees.

(11) The Mayor is authorized to issue and enforce administrative orders, not inconsistent with this or any other Act of the Congress or any act of the Council, as are necessary to carry out his functions and duties.

(12) The Mayor may reorganize the offices, agencies, and other entities within the executive branch of the government of the District by submitting to the Council a detailed plan of such reorganization. Such a reorganization plan shall be valid only if the Council does not adopt, within sixty days (excluding Saturdays, Sundays, and holidays) after such reorganization plan is submitted to it by the Mayor, a resolution disapproving such reorganization.

MUNICIPAL PLANNING

SEC. 423. (a) The Mayor shall be the central planning agency for the District. He shall be responsible for the coordination of planning activities of the municipal government and the preparation and implementation of the District's elements of the comprehensive plan for the National Capital which may include land use elements, urban renewal and redevelopment elements, a multi-year program of municipal public works for the District, and physical, social, economic, transportation, and population elements. The Mayor's planning responsibility shall not extend to Federal and international projects and developments in the District, as determined by the National Capital Planning Commission, or to the United States Capitol buildings and grounds as defined in sections 1 and 16 of the Act of July 31, 1946 (40 U.S.C. 193a,

193m) [D.C. Code, secs. 9-118, 9-132], or to any extension thereof or addition thereto, or to buildings and grounds under the care of the Architect of the Capitol. In carrying out his responsibilities under this section, the Mayor shall establish procedures for citizen involvement in the planning process and for appropriate meaningful consultation with any State or local government or planning agency in the National Capital region affected by an aspect of a proposed District element of the comprehensive plan (including amendments thereto) affecting or relating to the District.

(b) The Mayor shall submit the District's elements and amendments thereto, to the Council for revision or modification, and adoption by act, following public hearings. Following adoption and prior to implementation, the Council shall submit such elements and amendments thereto, to the National Capital Planning Commission for review and comment with regard to the impact of such elements or amendments on the interests and functions of the Federal Establishment, as determined by the Commission.

(c) Such elements and amendments thereto shall be subject to and limited by determinations with respect to the interests and functions of the Federal Establishment as determined in the manner provided by Act of Congress.

PART C—THE JUDICIARY

JUDICIAL POWERS

SEC. 431. (a) The judicial power of the District is vested in the District of Columbia Court of Appeals and the Superior Court of the District of Columbia. The Superior Court has jurisdiction of any civil action or other matter (at law or in equity) brought in the District and of any criminal case under any law applicable exclusively to the District. The Superior Court has no jurisdiction over any civil or criminal matter over which a United States court has exclusive jurisdiction pursuant to an Act of Congress. The Court of Appeals has jurisdic-

tion of appeals from the Superior Court and, to the extent provided by law, to review orders and decisions of the Mayor, the Council, or any agency of the District. The District of Columbia courts shall also have jurisdiction over any other matters granted to the District of Columbia courts by other provisions of law.

(b) The chief judge of a District of Columbia court shall be designated by the District of Columbia Judicial Nominating Commission established by section 434 from among the judges of the court in regular active service, and shall serve as chief judge for a term of four years or until his successor is designated, except that his term as chief judge shall not extend beyond the chief judge's term as a judge of a District of Columbia court. He shall be eligible for redesignation as chief judge.

(c) A judge of a District of Columbia court appointed on or after the date of enactment of the District of Columbia Court Reorganization Act of 1970 [July 29, 1970] shall be appointed for a term of fifteen years subject to mandatory retirement at age seventy or removal, suspension, or involuntary retirement pursuant to section 432 and upon completion of such term, such judge shall continue to serve until reappointed or his successor is appointed and qualifies. A judge may be reappointed as provided in subsection (c) of section 433.

(d) (1) There is established a District of Columbia Commission on Judicial Disabilities and Tenure (hereinafter referred to as the "Tenure Commission"). The Tenure Commission shall consist of seven members selected in accordance with the provisions of subsection (e), Such members shall serve for terms of six years, except that the member selected in accordance with subsection (e) (3) (A) shall serve for five years; of the members first selected in accordance with subsection (e) (3) (B), one member shall serve for three years and one member shall serve for six years; of the members first selected in accordance with subsection (e) (3) (C), one member shall serve for a term of three years and one member shall serve for five years; the member first selected in accordance with subsection (e) (3) (D) shall serve for six years;

and the member first appointed in accordance with subsection (e) (3) (E) shall serve for six years. In making the respective first appointments according to subsections (e) (3) (B) and (e) (3) (C), the Mayor and the Board of Governors of the unified District of Columbia Bar shall designate, at the time of such appointments, which member shall serve for the shorter term and which member shall serve for the longer term.

(2) The Tenure Commission shall act only at meetings called by the Chairman or a majority of the Tenure Commission held after notice has been given of such meeting to all Tenure Commission members.

(3) The Tenure Commission shall choose annually, from among its members, a Chairman and such other officers as it may deem necessary. The Tenure Commission may adopt such rules of procedures not inconsistent with this Act as may be necessary to govern the business of the Tenure Commission.

(4) The District government shall furnish to the Tenure Commission, upon the request of the Tenure Commission, such records, information, services, and such other assistance and facilities as may be necessary to enable the Tenure Commission properly to perform its functions. Information so furnished shall be treated by the Tenure Commission as privileged and confidential.

(e) (1) No person may be appointed to the Tenure Commission unless he—

(A) is a citizen of the United States;

(B) is a bona fide resident of the District and has maintained an actual place of abode in the District for at least ninety days immediately prior to his appointment; and

(C) is not an officer or employee of the legislative branch or of an executive or military department or agency of the United States (listed in sections 101 and 202 [1] of title 5 of the United States Code); and (except with respect to the person appointed or designated according to subsection (b) (4) (D)) is not an officer or employee of the judicial branch of the United States, or

[1] So in original. Probably should be section "102".

an officer or employee of the District government (including its judicial branch).

(2) Any vacancy on the Tenure Commission shall be filled in the same manner is [2] which the original appointment was made. Any person so appointed to fill a vacancy occurring other than upon the expiration of a prior term shall serve only for the remainder of the unexpired term of his predecessor.

(3) In addition to all other qualifications listed in this section, lawyer members of the Tenure Commission shall have the qualifications prescribed for persons appointed as judges of the District of Columbia courts. Members of the Tenure Commission shall be appointed as follows:

(A) One member shall be appointed by the President of the United States.

(B) Two members shall be appointed by the Board of Governors of the unified District of Columbia Bar, both or whom shall have been engaged in the practice of law in the District for at least five successive years preceding their appointment.

(C) Two members shall be appointed by the Mayor, one of whom shall not be a lawyer.

(D) One member shall be appointed by the Council, and shall not be a lawyer.

(E) One member shall be appointed by the chief judge of the United States District Court for the District of Columbia, and such member shall be an active or retired Federal judge serving in the District.

No person may serve at the same time on both the District of Columbia Judicial Nomination Commission and on the District of Columbia Commission on Judicial Disabilities and Tenure.

(2) Any member of the Tenure Commission who is an active or retired Federal judge shall serve without additional compensation. Other members shall receive the daily equivalent at the rate provided by grade 18 of the General Schedule, established under section 5332 of title 5 of the United States Code, while actually engaged in service for the Commission.

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[2] So in original. Probably should be "in".

(g) The Tenure Commission shall have the power to suspend, retire, or remove a judge of a District of Columbia court as provided in section 432.

REMOVAL, SUSPENSION, AND INVOLUNTARY RETIREMENT

SEC. 432. (a) (1) A judge of a District of Columbia court shall be removed from office upon the filing in the District of Columbia Court of Appeals by the Tenure Commission of an order of removal certifying the entry, in any court within the United States, of a final judgment of conviction of a crime which is punishable as a felony under Federal law or which would be a felony in the District.

(2) A judge of a District of Columbia court shall also be removed from office upon affirmance of an appeal from an order of removal filed in the District of Columbia Court of Appeals by the Tenure Commission (or upon expiration of the time within which such an appeal may be taken) after a determination by the Tenure Commission of—

(A) willful misconduct in office,

(B) willful and persistent failure to perform judicial duties, or

(C) any other conduct which is prejudicial to the administration of justice or which brings the judicial office into disrepute.

(b) A judge of a District of Columbia court shall be involuntarily retired from office when (1) the Tenure Commission determines that the judge suffers from a mental or physical disability (including habitual intemperance) which is or is likely to become permanent and which prevents, or seriously interferes with, the proper performance of his judicial duties, and (2) the Tenure Commission files in the District of Columbia Court of Appeals an order of involuntary retirement and the order is affirmed on appeal or the time within which an appeal may be taken from the order has expired.

(c) (1) A judge of a District of Columbia court shall be suspended, without salary—

(A) upon—

(i) proof of his conviction of a crime referred to in subsection (a) (1) which has not become final, or

(ii) the filing of an order of removal under subsection (a) (2) which has not become final; and

(B) upon the filing by the Tenure Commission of an order of suspension in the District of Columbia Court of Appeals.

Suspension under this paragraph shall continue until termination of all appeals. If the conviction is reversed or the order of removal is set aside, the judge shall be reinstated and shall recover his salary and all rights and privileges of his office.

(2) A judge of a District of Columbia court shall be suspended from all judicial duties, with such retirement salary as he may be entitled, upon the filing by the Tenure Commission of an order of involuntary retirement under subsection (b) in the District of Columbia Court of Appeals. Suspension shall continue until termination of all appeals. If the order of involuntary retirement is set aside, the judge shall be reinstated and shall recover his judicial salary less any retirement salary received and shall be entitled to all the rights and privileges of his office.

(3) A judge of a District of Columbia court shall be suspended from all or part of his judicial duties, with salary, if the Tenure Commission, upon concurrence of five members, (A) orders a hearing for the removal or retirement of the judge pursuant to this subchapter and determines that his suspension is in the interest of the administration of justice, and (B) files an order of suspension in the District of Columbia Court of Appeals. The suspension shall terminate as specified in the order (which may be modified, as appropriate, by the Tenure Commission) but in no event later than the termination of all appeals.

NOMINATION AND APPOINTMENT OF JUDGES

SEC. 433. (a) Except as provided in section 434(d)(1), the President shall nominate, from the list of persons recommended to him by the District of Columbia Judicial Nomination Commission established under section 434, and, by and with the advice and consent of the Senate, appoint all judges of the District of Columbia courts.

(b) No person may be nominated or appointed a judge of a District of Columbia court unless he—

(1) is a citizen of the United States;

(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the five years immediately preceding his nomination or for such five years has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or the District of Columbia government;

(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least ninety days immediately prior to his nomination, and shall retain such residency as long as he serves as such judge, except judges appointed prior to the effective date of this part who retain residency as required by section 1501(a) of title 11 of the District of Columbia Code shall not be required to be residents of the District to be eligible for reappointment or to serve any term to which reappointed;

(4) is recommended to the President, for such nomination and appointment, by the District of Columbia Judicial Nomination Commission; and

(5) has not served, within a period of two years prior to his nomination, as a member of the Tenure Commission or of the District of Columbia Judicial Nomination Commission.

(c) Not less than three months prior to the expiration of his term of office, any judge of the District of Columbia courts may file with the Tenure Commission a declaration of candidacy for reappointment. If a declaration is not so filed by any judge, a vacancy shall result from

the expiration of his term of office and shall be filled by appointment as provided in subsections (a) and (b). If a declaration is so filed, the Tenure Commission shall, not less than thirty days prior to the expiration of the declaring candidate's term of office, prepare and submit to the President a written evaluation of the declaring candidate's performance during his present term of office and his fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be exceptionally well qualified or well qualified for reappointment to another term, then the term of such declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the President may nominate such candidate, in which case the President shall submit to the Senate for advice and consent the renomination of the declaring candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b). If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the President shall not submit to the Senate for advice and consent the renomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court.

DISTRICT OF COLUMBIA JUDICIAL NOMINATION COMMISSION

SEC. 434. (a) There is established for the District of Columbia the District of Columbia Judicial Nomination Commission (hereafter in this section referred to as the "Commission"). The Commission shall consist of seven members selected in accordance with the provisions of subsection (b). Such member shall serve for terms of six years, except that the member selected in accordance with subsection (b) (4) (A) shall serve for five years; of the

members first selected in accordance with subsection (b) (4) (B), one member shall serve for three years and one member shall serve for six years; of the members first selected in accordance with subsection (b) (4) (C), one member shall serve for five years; the member first selected in accordance with subsection (b) (4) (D) shall serve for six years; and the member first appointed in accordance with subsection (b) (4) (E) shall serve for six years. In making the respective first appointments according to subsections (b) (4) (B) and (b) (4) (C), the Mayor and the Board of Governors of the unified District of Columbia Bar shall designate, at the time of such appointments, which member shall serve for the shorter term and which member shall serve for the longer term.

(b) (1) No person may be appointed to the Commission unless he—

(A) is a citizen of the United States;

(B) is a bona fide resident of the District and has maintained an actual place of abode in the District for at least 90 days immediately prior to his appointment; and

(C) is not a member, officer, or employee of the legislative branch or of an executive or military department or agency of the United States (listed in sections 101 and 202 [1] of title 5 of the United States Code); and (except with respect to the person appointed or designated according to subsection (b) (4) (D) is not an officer or employee of the judicial branch of the United States, or an officer or employee of the District government (including its judicial branch).

(2) Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made. Any person so appointed to fill a vacancy occurring other than upon the expiration of a prior term shall serve only for the remainder of the unexpired term of his predecessor.

(3) It shall be the function of the Commission to submit nominees for appointment to positions as judges of the District of Columbia courts in accordance with section 433 of this Act.

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[1] So in original. Probably should be section "102".

(4) In addition to all other qualifications listed in this section, lawyer members of the Commission shall have the qualifications prescribed for persons appointed as judges for the District of Columbia courts. Members of the Commission shall be appointed as follows:

(A) One member shall be appointed by the President of the United States.

(B) Two members shall be appointed by the Board of Governors of the unified District of Columbia Bar, both of whom shall have been engaged in the practice of law in the District for at least five successive years preceding their appointment.

(C) Two members shall be appointed by the Mayor, one of whom shall not be a lawyer.

(D) One member shall be appointed by the Council, and shall not be a lawyer.

(E) One member shall be appointed by the chief judge of the United States District Court for the District of Columbia, and such member shall be an active or retired Federal judge serving in the District.

(5) Any member of the Commission who is an active or retired Federal judge shall serve without additional compensation. Other members shall receive the daily equivalent at the rate provided by grade 18 of the General Schedule, established under section 5332 of title 5 of the United States Code, while actually engaged in service for the Commission.

(c) (1) The Commission shall act only at meetings called by the Chairman or a majority of the Commission held after notice has been given of such meeting to all Commission members.

(2) The Commission shall choose annually, from among its members, a Chairman, and such other officers as it may deem necessary. The Commission may adopt such rules of procedures [sic] not inconsistent with this Act as may be necessary to govern the business of the Commission.

(3) The District government shall furnish to the Commission, upon the request of the Commission, such records, information, services, and such other assistance and

facilities as may be necessary to enable the Commission properly to perform its function. Information so furnished shall be treated by the Commission as privileged and confidential.

(d) (1) In the event of a vacancy in any position of the judge of a District of Columbia court, the Commission shall, within thirty days following the occurrence of such vacancy, submit to the President, for possible nomination and appointment, a list of three persons for each vacancy. If more than one vacancy exists at one given time, the Commission must submit lists in which no person is named more than once and the President may select more than one nominee from one list. Whenever a vacancy will occur by reason of the expiration of such a judge's term of office, the Commission's list of nominees shall be submitted to the President not less than thirty days prior to the occurrence of such vacancy. In the event the President fails to nominate, for Senate confirmation, one of the persons on the list submitted to him under this section within sixty days after receiving such list, the Commission shall nominate, and with the advice and consent of the Senate, appoint one of those persons to fill the vacancy for which such list was originally submitted to the President.

(2) In the event any person recommended by the Commission to the President requests that his recomendation be withdrawn, dies, or in any other way becomes disqualified to serve as a judge of the District of Columbia courts, the Commission shall promptly recommend to the President one person to replace the person originally recommended.

(3) In no instance shall the Commission recommend any person, who in the event of timely nomination following a recommendation by the Commission, does not meet, upon such nomination, the qualifications specified in section 433.

PART D—DISTRICT BUDGET AND FINANCIAL MANAGEMENT

Subpart 1—Budget and Financial Management

FISCAL YEAR

SEC. 441. The fiscal year of the District shall, beginning on October 1, 1976, commence on the first day of October of each year and shall end on the thirtieth day of September of the succeeding calendar year. Such fiscal year shall also constitute the budget and accounting year. (Amended Aug. 29, 1974, Pub. L. 93-395, § 1(3), 88 Stat. 793.)

SUBMISSION OF ANNUAL BUDGET

SEC. 442. (a) At such time as the Council may direct, the Mayor shall prepare and submit to the Council each year, and make available to the public, an annual budget for the District of Columbia government which shall include—

(1) the budget for the forthcoming fiscal year in such detail as the Mayor determines necesary to reflect the actual financial condition of the District government for such fiscal year, and specify the agencies and purposes for which funds are being requested; and which shall be prepared on the assumption that proposed expenditures resulting from financial transactions undertaken on either an obligation or cash-outlay basis, for such fiscal year shall not exceed estimated resources from existing sources and proposed resources:

(2) an annual budget message which shall include supporting financial and statistical information on the budget for the forthcoming fiscal year and information on the approved budgets and expenditures for the immediately preceding three fiscal years;

(3) a multiyear plan for all agencies of the District government as required under section 443;

(4) a multiyear capital improvements plan for all agencies of the District government as required under section 444;

(5) a program performance report comparing actual performance of as many programs as is practicable for the last completed fiscal year against proposed goals for such programs for such year, and, in addition, presenting as many qualitative or quantitative measures of program effectiveness as possible (including results of statistical sampling or other special analyses), and indicating the status of efforts to comply with the reports of the District of Columbia Auditor and the Comptroller General of the United States;

(6) an issue analysis statement consisting of a reasonable number of issues, identified by the Council in its action on the budget in the preceding fiscal year, having significant revenue or budgetary implications, and other similar issues selected by the Mayor, which shall consider the cost and benefits of alternatives and the rationale behind action recommended or adopted; and

(7) a summary of the budget for the forthcoming fiscal year designed for distribution to the general public.

(b) The budget prepared and submitted by the Mayor shall include, but not be limited to, recommended expenditures at a reasonable level for the forthcoming fiscal year for the Council, the District of Columbia Auditor, the District of Columbia Board of Elections, the District of Columbia Judicial Nomination Commission, the Zoning Commission of the District of Columbia, the Public Service Commission, the Armory Board, and the Commission on Judicial Disabilities and Tenure.

(c) The Mayor from time to time may prepare and submit to the Council such proposed supplemental or deficiency budget recommendations as in his judgment are necessary on account of laws enacted after transmission of the budget or are otherwise in the public interest. The Mayor shall submit with such proposals a statement of justification, including reasons for their omission from the annual budget. Whenever such proposed supplemental

or deficiency budget recommendations are in an amount which would result in expenditures in excess of estimated resources, the Mayor shall make such recommendations as are necessary to increase resources to meet such increased expenditures.

MULTIYEAR PLAN

SEC. 443. The Mayor shall prepare and include in the annual budget a multiyear plan for all agencies included in the District budget, for all sources of funding, and for such program categories as the Mayor identifies. Such plan shall be based on the actual experience of the immediately preceding three fiscal years, on the approved current fiscal year budget, and on estimates for at least the four succeeding fiscal years. The plan shall include, but not be limited to, provisions identifying—

(1) future cost implications of maintaining programs at currently authorized levels, including anticipated changes in wage, salary, and benefit levels;

(2) future cost implications of all capital projects for which funds have already been authorized, including identification of the amount of already appropriated but unexpended capital project funds;

(3) future cost implications of new, improved, or expanded programs and capital project commitments proposed for each of the succeeding four fiscal years;

(4) the effects of current and proposed capital projects on future operating budget requirements;

(5) revenues and funds likely to be available from existing revenue sources at current rates or levels;

(6) the specific revenue and tax measures recommended for the forthcoming fiscal year and for the next following fiscal year necessary to balance revenues and expenditures;

(7) the actuarial status and anticipated costs and revenues of retirement systems covering District employees; and

(8) total debt service payments in each fiscal year in which debt service payments must be made for all bonds

which have been or will be issued, and all loans from the United States Treasury which have been or will be received, to finance the total cost on a full funding basis of all projects listed in the capital improvements plan prepared under section 444; and for each such fiscal year, the percentage relationship of the total debt service payments (with payments for issued and proposed bonds and loans from the United States Treasury, received or proposed, separately identified) to the bonding limitation for the current and forthcoming fiscal year as specified in section 603(b).

MULTIYEAR CAPITAL IMPROVEMENTS PLAN

SEC. 444. The Mayor shall prepare and include in the annual budget a multiyear capital improvements plan for all agencies of the District which shall be based upon the approved current fiscal year budget and shall include—

(1) the status, estimated period of usefulness, and total cost of each capital project on a full funding basis for which any appropriation is requested or any expenditures will be made in the forthcoming fiscal year and at least four fiscal years thereafter, including an explanation of change in total cost in excess of 5 per centum for any capital project included in the plan of the previous fiscal year;

(2) an analysis of the plan, including its relationship to other programs, proposals, or elements developed by the Mayor as the central planning agency for the District pursuant to section 423 of this Act;

(3) identification of the years and amounts in which bonds would have to be issued, loans made, and costs actually incurred on each capital project identified; and

(4) appropriate maps or other graphics.

DISTRICT OF COLUMBIA COURTS' BUDGET

SEC. 445. The District of Columbia courts shall prepare and annually submit to the Mayor, for inclusion in the annual budget, annual estimates of the expenditures

and appropriations necessary for the maintenance and operation of the District of Columbia court system. All such estimates shall be forwarded by the Mayor to the Council, for its action pursuant to sections 446 and 603(c), without revision but subject to his recommendations. Notwithstanding any other provision of this Act, the Council may comment or make recommendations concerning such annual estimates involving the expenditures and appropriations necessary for the maintenance and operation of the District of Columbia court system submitted by such courts but shall have no authority under this Act to revise such estimates. The courts shall submit as part of their budgets both a multiyear plan and a multiyear capital improvements plan and shall submit a statement presenting qualitative and quantitative descriptions of court activities and the status of efforts to comply with reports of the District of Columbia Auditor and the Comptroller General of the United States.

ENACTMENT OF APPROPRIATIONS BY CONGRESS

SEC. 446. The Council, within fifty calendar days after receipt of the budget proposal from the Mayor, and after public hearing, shall by act adopt the annual budget for the District of Columbia government. Any supplements thereto shall also be adopted by act by the Council after public hearing. Such budget so adopted shall be submitted by the Mayor to the President for transmission by him to the Congress. No amount may be obligated or expended by any officer or employee of the District of Columbia government unless such amount has been approved by Act of Congress, and then only according to such Act. Notwithstanding any other provision of this Act, the Mayor shall not transmit any annual budget or amendments or supplements thereto, to the President of the United States until the completion of the budget procedures contained in this Act.

CONSISTENCY OF BUDGET, ACCOUNTING, AND PERSONNEL SYSTEMS

SEC. 447. The Mayor shall implement appropriate procedures to insure that budget, accounting, and personnel control systems and structures are synchronized for budgeting and control purposes on a continuing basis. No employee shall be hired on a full-time or part-time basis unless such position is authorized by Act of Congress. Employees shall be assigned in accordance with the program, organization, and fund categories specified in the Act of Congress authorizing such position. Hiring of temporary employees and temporary employee transfers among programs shall be consistent with applicable Acts of Congress and reprogramming procedures to insure that costs are accurately associated with programs and sources of funding.

FINANCIAL DUTIES OF THE MAYOR

SEC. 448. Subject to the limitations in section 603, the Mayor shall have charge of the administration of the financial affairs of the District and to that end he shall—

(1) supervise and be responsible for all financial transactions to insure adequate control of revenues and resources and to insure that appropriations are not exceeded;

(2) maintain systems of accounting and internal control designed to provide—

(A) full disclosure of the financial results of the District government's activities,

(B) adequate financial information needed by the District government for management purposes,

(C) effective control over and accountability for all funds, property, and other assets,

(D) reliable accounting results to serve as the basis for preparing and supporting agency budget requests and controlling the execution of the budget;

(3) submit to the Council a financial statement in any detail and at such times as the Council may specify;

(4) submit to the Council, by November 1 of each fiscal year, a complete financial statement and report for the preceeding fiscal year;

(5) supervise and be responsible for the assessment of all property subject to assessment and special assessments within the corporate limits of the District for taxation, prepare tax maps, and give such notice of taxes and special assessments, as may be required by law;

(6) supervise and be responsible for the levying and collection of all taxes, special assessments, license fees, and other revenues of the District, as required by law, and receive all moneys receivable by the District from the Federal Government or from any court, agency, or instrumentality of the District;

(7) have custody of all public funds belonging to or under the control of the District, or any agency of the District government, and deposit all funds coming into his hands, in such depositories as may be designated and under such terms and conditions as may be prescribed by act of the Council;

(8) have custody of all investments and invested funds of the District government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the District and the receipt and delivery of District bonds and notes for transfer, registration or exchange; and

(9) apportion the total of all appropriations and funds made available during the fiscal year for obligation so as to prevent obligation or expenditure thereof in a manner which would indicate a necessity for deficiency or supplemental appropriations for such fiscal year, and with respect to all appropriations or funds not limited to a definite period, and all authorizations to create obligations by contract in advance of appropriations, apportion the total of such appropriations or funds or authorizations so as to achieve the most effective and economical use thereof.

ACCOUNTING SUPERVISION AND CONTROL

SEC. 449. The Mayor shall—

(a) prescribe the forms or receipts, vouchers, bills and claims to be used by all the agencies, offices, and instrumentalities of the District government;

(b) examine and approve all contracts, orders, and other documents by which the District government incurs financial obligations, having previously ascertained that money has been appropriated and allotted and will be available when the obligations shall become due and payable;

(c) audit and approve before payment all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the District government and with the advice of the legal officials of the District determine the regularity, legality, and correctness of such claims, demands, or charges; and

(d) perform internal audits of accounts and operations and agency records of the District government, including the examination of any accounts or records of financial transactions, giving due consideration to the effectiveness of accounting systems, internal control, and related administrative practices of the respective agencies.

GENERAL AND SPECIAL FUNDS

SEC. 450. The general fund of the District shall be composed of those District revenues which on the effective date of this title are paid into the Treasury of the United States and credited either to the general fund of the District or its miscellaneous receipts, but shall not include any revenues which are applied by law to any special fund existing on the date of enactment of this title. The Council may from time to time establish such additional special funds as may be necessary for the efficient operation of the government of the District. All money received by any agency, officer, or employee of the District in its or his official capacity shall belong to the District government and shall be paid promptly to the Mayor for deposit in the appropriate fund.

CONTRACTS EXTENDING BEYOND ONE YEAR

SEC. 451. No contract involving expenditures out of an appropriation which is available for more than one year shall be made for a period of more than five years unless, with respect to a particular contract, the Council, by a two-thirds vote of its members present and voting, authorizes the extension of such period for such contract. Such contracts shall be made pursuant to criteria established by act of the Council.

ANNUAL BUDGET FOR THE BOARD OF EDUCATION

SEC. 452. With respect to the annual budget for the Board of Education in the District of Columbia, the Mayor and the Council may establish the maximum amount of funds which will be allocated to the Board, but may not specify the purposes for which such funds may be expended or the amount of such funds which may be expended for the various programs under the jurisdiction of the Board of Education.

Subpart 2—Audit

DISTRICT OF COLUMBIA AUDITOR

SEC. 455. (a) There is established for the District of Columbia the Office of District of Columbia Auditor who shall be appointed by the Chairman, subject to the approval of a majority of the Council. The District of Columbia Auditor shall serve for a term of six years and shall be paid at a rate of compensation as may be established from time to time by the Council.

(b) The District of Columbia Auditor shall each year conduct a thorough audit of the accounts and operations of the government of the District in accordance with such principles and procedures and under such rules and regulations as he may prescribe. In the determination of the auditing procedures to be followed and the extent of the examination of vouchers and other documents and records, the District of Columbia Auditor shall give due

regard to generally accepted principles of auditing including the effectiveness of the accounting organizations and systems, internal audit and control, and related administrative practices.

(c) The District of Columbia Auditor shall have access to all books, accounts, records, reports, findings and all other papers, things, or property belonging to or in use by any department, agency, or other instrumentality of the District government and necessary to facilitate the audit.

(d) The District of Columbia Auditor shall submit his audit reports to the Congress, the Mayor, and the Council. Such reports shall set forth the scope of the audits conducted by him and shall include such comments and information as the District of Columbia Auditor may deem necessary to keep the Congress, the Mayor, and the Council informed of the operations to which the reports relate, together with such recommendations with respect thereto as he may deem advisable.

(e) The Council shall make such report, together with such other material as it deems pertinent thereto, available for public inspection.

(f) The Mayor shall state in writing to the Council, within an appropriate time, what action he has taken to effectuate the recommendations made by the District of Columbia Auditor in his reports.

PART E—BORROWING

Subpart 1—Borrowing

DISTRICT'S AUTHORITY TO ISSUE AND REDEEM GENERAL OBLIGATION BONDS FOR CAPITAL PROJECTS

SEC. 461. (a) Subject to the limitations in section 603 (b), the District may incur indebtedness by issuing general obligation bonds to refund indebtedness of the District at any time outstanding and to provide for the payment of the cost of acquiring or undertaking its various capital projects. Such bonds shall bear interest,

payable annually or semi-annually, at such rate and at such maturities as the Mayor, subject to the provisions of section 462 of this Act, may from time to time determine to be necessary to make such bonds marketable.

(b) The District may reserve the right to redeem any or all of its obligations before maturity in such manner and at such price as may be fixed by the Mayor prior to the issuance of such obligations.

CONTENTS OF BORROWING LEGISLATION

SEC. 462. The Council may by act authorize the issuance of general obligation bonds for the purposes specified in section 461. Such an act shall contain, at least, provisions—

(1) briefly describing each project to be financed by the act;

(2) identifying the Act authorizing each such project;

(3) setting forth the maximum amount of the principal of the indebtedness which may be incurred for each such project;

(4) setting forth the maximum rate of interest to be paid on such indebtedness;

(5) setting forth the maximum allowable maturity for the issue and the maximum debt service payable in any year; and

(6) setting forth, in the event that the Council determines in its discretion, to submit the question of issuing such bonds to a vote of the qualified voters of the District, the manner of holding such election, the manner of voting for or against the incurring of such indebtedness, and the form of ballot to be used at such election. (Amended Aug. 29, 1974, Pub. L. 93-395, § 1(4), 88 Stat. 793.)

PUBLICATION OF BORROWING LEGISLATION

SEC. 463. The Mayor shall publish any act authorizing the issuance of general obligation bonds at least once within five days after the enactment thereof, together

with a notice of the enactment thereof in substantially the following form:

"NOTICE

"The following act (published herewith) authorizing the issuance of general obligation bonds, has become effective. The time within which a suit, action, or proceeding questioning the validity of such bonds can be commenced, will expire twenty days from the date of the first publication of this notice, as provided in the District of Columbia Self-Government and Governmental Reorganization Act.

"_____ _____,
"Mayor."

SHORT PERIOD OF LIMITATION

SEC. 464. At the end of the twenty-day period beginning on the date of publication of the notice of the enactment of an act authorizing the issuance of general obligation bonds without the submission of the proposition for the issuance thereof to the qualified voters, or upon the expiration of twenty days from the date of publication of the promulgation of the results of an election upon the proposition of issuing bonds, as the case may be—

(1) any recitals or statements of fact contained in such act or in the preambles or the titles thereof or in the results of the election of any proceedings in connection with the calling, holding, or conducting of election upon the issuance of such bonds shall be deemed to be true for the purpose of determining the validity of the bonds thereby authorized, and the District and all others interested shall thereafter be estopped from denying same;

(2) such act and all proceedings in connection with the authorization of the issuance of such bonds shall be conclusively presumed to have been duly and regularly taken, passed, and done by the District and the Board of Elections in full compliance with the provisions of this Act and of all laws applicable thereto; and

(3) the validity of such act and said proceedings shall not thereafter be questioned by either a party plaintiff or a party defendant, and no court shall have jurisdiction in any suit, action, or proceeding questioning the validity of same, except in a suit, action, or proceeding commenced prior to the expiration of such twenty-day period.

ACTS FOR ISSUANCE OF GENERAL OBLIGATION BONDS

SEC. 465. At the end of the twenty-day period specified in section 464, the Mayor may issue general obligation bonds as authorized pursuant to the provisions of sections 461 to 465. An issue of general obligation bonds is hereby defined to be all or any part of an aggregate principal amount of bonds authorized pursuant to such sections, but no indebtedness shall be deemed to have been incurred within the meaning of this Act until such bonds have been sold, delivered, and paid for, and then only to the extent of the principal amount of such bonds so sold and delivered. The bonds of each issue shall be payable in annual installments beginning not more than three years after the date of such bonds and ending not more than thirty years from such date. The amount of said issues to be payable in each year shall be so fixed that when the annual interest is added to the principal amount payable in each year, the total amount payable either serially or to a sinking fund shall be substantially equal. It shall be an immaterial variance if the difference between the largest and smallest amounts of principal and interest so payable during each fiscal year during the term of the general obligation bonds does not exceed 3 per centum of the total authorized amount of such series. Such bonds and coupons may be executed by the facsimile signatures of the officer designated by the act authorizing such bonds, to sign the bonds, within the exception that at least one signature shall be manual. Such bonds may be issued in coupon form in the denomination of $1,000, or $1,000 and $5,000, registerable as to principal only or as to both principal and interest, and if registered as to both principal and interest may be issuable in denominations of multiples of $1,000. Such bonds and the interest thereon may be payable at such place or places within or without the District as the Council may determine. (Amended Aug. 29, 1974, Pub. L. 93-395, § 1(5), 88 Stat. 793.)

PUBLIC SALE

SEC. 466. All general obligation bonds issued under this part shall be sold at public sale upon sealed proposals after publication of a notice of such sale at least once not less than ten days prior to the date fixed for sale in a daily newspaper carrying municipal bond notices and devoted primarily to financial news or to the subject of State and municipal bonds published in the city of New York, New York, and in one or more newspapers of general circulation published in the District. Such notice shall state, among other things, that no proposal shall be considered unless there is deposited with the District as a downpayment a certified check or cashier's check for an amount equal to at least 2 per centum of the par amount of general obligation bonds bid for, and the Mayor shall reserve the right to reject any and all bids. (Amended Aug. 29, 1974, Pub. L. 93-395, § 1(6), 88 Stat. 793.)

Subpart 2—Short-Term Borrowing

BORROWING TO MEET APPROPRIATIONS

SEC. 471. In the absence of unappropriated available revenues to meet appropriations made pursuant to section 446, the Council may by act authorize the issuance of negotiable notes, in a total amount not to exceed 2 per centum of the total appropriations for the current fiscal year, each of which may be renewed from time to time, but all such notes and renewals thereof shall be paid not later than the close of the fiscal year following that in which such act becomes effective.

BORROWING IN ANTICIPATION OF REVENUES

SEC. 472. For any fiscal year, in anticipation of the collection or receipt of revenues of that fiscal year, the Council may by act authorize the borrowing of money by the execution of negotiable notes of the District, not to exceed in the aggregate at any time outstanding 20 per centum of the total anticipated revenue, each of which shall be designated "Revenue Note for the Fiscal Year 19—". Such notes may be renewed from time to time, but all such notes, together with the renewals, shall mature and be paid not later than the end of the fiscal year for which the original notes have been issued.

NOTES REDEEMABLE PRIOR TO MATURITY

SEC. 473. No notes issued pursuant to this part shall be made payable on demand, but any note may be made subject to redemption prior to maturity on such notice and at such time as may be stated in the note.

SALES OF NOTES

SEC. 474. All notes issued pursuant to this part may be sold at not less than par and accrued interest at private sale without previous advertising.

Subpart 3—Payment of Bonds and Notes

SPECIAL TAX

SEC. 481. (a) The act of the Council authorizing the issuance of general obligation bonds pursuant to this title, shall, where necessary, provide for the levy annually of a special tax or charge without limitation as to rate or amount in amounts which, together with other revenues of the District available and applicable for said purposes, will be sufficient to pay the principal of and interest on such bonds and the premium, if any, upon the redemption thereof, as the same respectively become

due and payable, which tax shall be levied and collected at the same time and in the same manner as other District taxes are levied and collected, and when collected shall be set aside in a sinking fund and irrevocably dedicated to the payment of such principal, interest, and premium.

(b) The full faith and credit of the District shall be and is hereby pledged for the payment of the principal of and the interest on all general obligation bonds and notes of the District hereafter issued pursuant to subparts 1, 2, and 3 of part E of this title whether or not such pledge be stated in such bonds or notes or in the act authorizing the issuance thereof.

(c) (1) As soon as practicable following the beginning of each fiscal year, the Mayor shall review the amounts of District revenues which have been set aside and deposited in a sinking fund as provided in subsection (a). Such review shall be carried out with a view to determining whether the amounts so set aside and deposited are sufficient to pay the principal of and interest on general obligation bonds issued pursuant to this title, and the premium (if any) upon the redemption thereof, as the same respectively become due and payable. To the extent that the Mayor determines that sufficient District revenues have not been so set aside and deposited, the Federal payment made for the fiscal year within which such review is conducted shall be first utilized to make up any deficit in such sinking fund.

(2) The Comptroller General of the United States shall make annual audits of the amounts set aside and deposited in the sinking fund.

Subpart 4—Tax Exemption; Legal Investment; Water Pollution; Reservoirs; Metro Contributions; and Revenue Bonds

TAX EXEMPTION

SEC. 485. Bonds and notes issued by the Council pursuant to this title and the interest thereon shall be exempt from all Federal and District taxation except estate, inheritance, and gift taxes.

LEGAL INVESTMENT

SEC. 486. Notwithstanding any restriction on the investment of funds by fiduciaries contained in any other law, all domestic insurance companies, domestic insurance associations, executors, administrators, guardians, trustees, and other fiduciaries within the District may legally invest any sinking funds, moneys, trust funds, or other funds belonging to them or under or within their control in any bonds issued pursuant to this title, it being the purpose of this section to authorize the investment in such bonds or notes of all sinking, insurance, retirement, compensation, pension, and trust funds. National banking associations are authorized to deal in, underwrite, purchase and sell, for their own accounts or for the accounts of customers, bonds and notes issued by the Council to the same extent as national banking associations are authorized by paragraph seven of section 5136 of the Revised Statutes (12 U.S.C. 24), to deal in, underwrite, purchase and sell obligations of the United States, States, or political subdivisions thereof. All Federal building and loan associations and Federal savings and loan associations; and banks, trust companies, building and loan associations, and savings and loan associations, domiciled in the District, may purchase, sell, underwrite, and deal in, for their own account or for the account of others, all bonds or notes issued pursuant to this title. Nothing contained in this section shall be construed as relieving any person, firm, association, or corporation from any duty of exercising due and reasonable care in selecting securities for purchase or investment.

WATER POLLUTION

SEC. 487. (a) The Mayor shall annually estimate the amount of the District's principal and interest expense which is required to service District obligations attributable to the Maryland and Virginia pro rata share of District sanitary sewage water works and other water pollution projects which provide service to the local jurisdictions in those States. Such amounts as determined by the Mayor pursuant to the agreements described in subsection (b) shall be used to exclude the Maryland and Virginia share of pollution projects cost from the limitation on the District's capital project obligations as provided in section 603(b).

(b) The Mayor shall enter into agreements with the States and local jurisdictions concerned for annual payments to the District of rates and charges for waste treatment services in accordance with the use and benefits made and derived from the operation of the said waste treatment facilities. Each such agreement shall require that the estimated amount of such rates and charges will be paid in advance, subject to adjustment after each year. Such rates and charges shall be sufficient to cover the cost of construction, interest on capital, operation and maintenance, and the necessary replacement of equipment during the useful life of the facility.

COST OF RESERVOIRS ON POTOMAC RIVER

SEC. 488. (a) The Mayor is authorized to contract with the United States, any State in the Potomac River Basin, any agency or political subdivision thereof, and any other competent State or local authority, with respect to the payment by the District to the United States, either directly or indirectly, of the District's equitable share of any part or parts of the non-Federal portion of the costs of any reservoirs authorized by the Congress for construction on the Potomac River or any of it tributaries. Every such contract may contain such provisions as the Mayor may deem necessary or appropriate.

(b) Unless hereafter otherwise provided by legislation enacted by the Council, all payments made by the District and all moneys received by the District pursuant to any contract made under the authority of this Act shall be paid from, or be deposited in, a fund designated by the Mayor. Charges for water delivered from the District water system for use outside the District may be adjusted to reflect the portions of any payments made by the

District under contracts authorized by this Act which are equitably attributable to such use outside the District.

DISTRICT'S CONTRIBUTIONS TO THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

SEC. 489. Notwithstanding any provision of law to the contrary, beginning with fiscal year 1976 the District share of the cost of the Adopted Regional System described in the National Capital Transportation Act of 1969 (83 Stat. 320) [D.C. Code, sec. 1-1441 et seq.], may be payable from the proceeds of the sale of District general obligation bonds issued pursuant to this title.

REVENUE BONDS AND OTHER OBLIGATIONS

SEC. 490. (a) The Council may by act issue revenue bonds, notes, or other obligations (including refunding bonds, notes, or other obligations) to borrow money to finance or assist in the financing of undertakings in the areas of housing, health facilities, transit and utility facilities, recreational facilities, college and university facilities, and industrial and commercial development. Such bonds, notes, or other obligations shall be fully negotiable and payable, as to both principal and interest, solely from and secured solely by a pledge of the revenues realized from the property, facilities, developments, and improvements whose financing is undertaken by the issuance of such bonds, notes, or other obligations, including existing facilities to which such new facilities and improvements are related, which financing may be efected through loans made directly or indirectly (including the purchase of mortgages, in those cases described in subsection (b) of this section, notes, or other securities) to any public, quasi-public, or private corporation, partnership, association, person, or other legal entity.

(b) Except in the case of housing, recreation, commercial and industrial development, the property, facilities, developments, and improvements being financed may not be mortgaged as additional security for bonds, notes, or other obligations, but in no event shall any property

owned by the District of Columbia or the United States be mortgaged for the purpose of this section.

(c) Any and all such bonds, notes, or other obligations shall not be general obligations of the District and shall not be a pledge of or involve the faith and credit or the taxing power of the District, shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as contained in section 602(a)(2).

(d) Any and all such bonds, notes, or other obligations shall be issued pursuant to an act of the Council without the necessity of submitting the question of such issuance to the registered qualified electors of the District for approval or disapproval.

(e) Any such act may contain provisions—

(1) briefly describing the purpose for which such bond, note, or other obligation is to be issued;

(2) identifying the Act authorizing such purpose;

(3) prescribing the form, terms, provisions, manner or method of issuing and selling (including negotiated as well as competitive bid sale), and the time of issuance, of such bonds, notes, or other obligations; and

(4) prescribing any and all other details with respect to any such bonds, notes, or other obligations and the issuance and sale thereof.

The act may authorize and empower the Mayor to do any and all things necessary, proper, or expedient in connection with the issuance and sale of such notes, bonds, or other obligations authorized to be issued under the provisions of this section.

PART F—INDEPENDENT AGENCIES

BOARD OF ELECTIONS

SEC. 491. Section 3 of the District of Columbia Elections Act (D.C. Code, sec. 1-1103) is amended to read as follows:

"SEC. 3. (a) There is created a District of Columbia Board of Elections (hereafter in this section referred to

as the 'Board'), to be composed of three members, no more than two of whom shall be of the same political party, appointed by the Mayor, with the advice and consent of the Council. Members shall be appointed to serve for terms of three years, except of the members first appointed under this Act. One member shall be appointed to serve for a one-year term, one member shall be appointed to serve for a two-year term, and one member shall be appointed to serve for a three-year term, as designated by the Mayor.

"(b) Any person appointed to fill a vacancy on the Board shall be appointed only for the unexpired term of the member whose vacancy he is filling.

"(c) A member may be reappointed, and, if not reappointed, the member shall serve until his successor has been appointed and qualifies.

"(d) The Mayor shall, from time to time, designate the Chairman of the Board."

ZONING COMMISSION

SEC. 492. (a) The first section of the Act of March 1, 1920 (D.C. Code, sec. 5-412) is amended to read as follows: "That (a) to protect the public health, secure the public safety, and to protect property in the District of Columbia there is created a Zoning Commission for the District of Columbia, which shall consist of the Architect of the Capitol, the Director of the National Park Service, and three members appointed by the Mayor, by and with the advice and consent of the Council. Each member appointed by the Mayor shall serve for a term of four years, except of the members first appointed under this section—

"(1) one member shall serve for a term of two years, as determined by the Mayor;

"(2) one member shall serve for a term of three years, as determined by the Mayor; and

"(3) one member shall serve for a term of four years, as determined by the Mayor.

"(b) Members of the Zoning Commission appointed by the Mayor shall be entitled to receive compensation as determined by the Mayor, with the approval of a majority of the Council. The remaining members shall serve without additional compensation.

"(c) Members of the Zoning Commission appointed by the Mayor may be reappointed. Each member shall serve until his successor has been appointed and qualifies.

"(d) The Chairman of the Zoning Commission shall be selected by the members.

"(e) The Zoning Commission shall exercise all the powers and perform all the duties with respect to zoning in the District as provided by law."

(b) The Act of June 20, 1938 (D.C. Code, sec. 5-413, et seq.) is amended as follows:

(1) The first sentence of section 2 of such Act (D.C. Code, sec. 5-414) is amended by striking out "Such regulations shall be made in accordance with a comprehensive plan and" and inserting in lieu thereof "Zoning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the National Capital, and zoning regulations shall be".

(2) Section 5 of such Act (D.C. Code, sec. 5-417) is amended to read as follows:

"SEC. 5. (a) No zoning regulation or map, or any amendment thereto, may be adopted by the Zoning Commission until the Zoning Commission—

"(1) has held a public hearing, after notice, on such proposed regulation. map, or amendment; and

"(2) after such public hearing, submitted such proposed regulation, map, or amendment to the National Capital Planning Commission for comment and review. If the National Capital Planning Commission fails to submit its comments regarding any such regulation, map, or amendment within thirty days after submission of such regulation, map, or amendment to it, then the Zoning Commission may proceed to act upon the proposed regulation, map, or amendment without further comment from the National Capital Planning Commission.

"(b) The notice required by clause (1) of subsection (a) shall be published at least thirty days prior to such public hearing and shall include a statement as to the

time and place of the hearing and a summary of all changes in existing zoning regulations which would be made by adoption of the proposed regulation, map, or amendment. The Zoning Commission shall give such additional notice as it deems expedient and practicable. All interested persons shall be given a reasonable opportunity to be heard at such public hearing. If the hearing is adjourned from time to time, the time and place of reconvening shall be publicly announced prior to adjournment.

"(c) The Zoning Commission shall deposit with the National Capital Planning Commission all zoning regulations, maps, or amendments thereto, adopted by it."

PUBLIC SERVICE COMMISSION

SEC. 493. (a) There shall be a Public Service Commission whose function shall be to insure that every public utility doing business within the District of Columbia is required to furnish service and facilities reasonably safe and adequate and in all respects just and reasonable. The charge made by any such public utility for any facility or services furnished, or rendered, or to be furnished or rendered, shall be reasonable, just, and nondiscriminatory. Every unjust or unreasonable or discriminating charge for such facility or service is prohibited and is hereby declared unlawful.

(b) Paragraph 97(a) of section 8 of the Act of March 4, 1913 (making appropriations for the government of the District of Columbia) (D.C. Code, sec. 43-201), is amended as follows:

(1) The first sentence of such paragraph is amended to read as follows: "The Public Service Commission of the District of Columbia shall be composed of three commissioners appointed by the Mayor, by and with the advice and consent of the Council, except that the members (other than the Commissioner of the District of Columbia) serving as commissioners of such Commission on January 1, 1975, by virtue of their appointment by the President, by and with the advice and consent of the Senate, shall continue to serve until the expiration of the terms for which they were so appointed. The member first appointed by the Mayor, by and with the advice and consent of the Council, on or after January 2, 1975, shall serve until June 30, 1978."

(2) The third sentence of such paragraph is repealed.

(3) The sixth sentence of such paragraph is amended to read as follows: "No Commissioner shall, during his term of office, hold any other public office.".

(4) The seventh sentence of such paragraph is amended by deleting "The Commissioners of the District of Columbia" and inserting in lieu thereof "The Mayor".

(5) The eighth sentence of such paragraph is amended to read as follows: "No person shall be eligible to the office of Commissioner of the Public Service Commission of the District of Columbia who has not been a bona fide resident of the District of Columbia for a period of at least three years next preceding his appointment or who has voted or claimed residence elsewhere during such period.".

(Amended Jan. 3, 1975, Pub. L. 93-635, § 17, 88 Stat. 2178.)

ARMORY BOARD

SEC. 494. The first sentence of section 2 of the Act of June 4, 1948 (D.C. Code, sec. 2-1702), is amended to read as follows: "There is established an Armory Board, to be composed of the commanding general of the District of Columbia Militia, and two other members appointed by the Mayor of the District of Columbia by and with the advice and consent of the Council of the District of Columbia. The members appointed by the Mayor shall each serve for a term of four years beginning on the date such member qualifies.".

BOARD OF EDUCATION

SEC. 495. The control of the public schools in the District of Columbia is vested in a Board of Education to consist of eleven elected members, three of whom are to be elected at large, and one to be elected from each of the eight school election wards established under the District of Columbia Election Act. The election of the members of the Board of Education shall be conducted on a non-partisan basis and in accordance with such Act.

TITLE V—FEDERAL PAYMENT

DUTIES OF THE MAYOR, COUNCIL, AND FEDERAL OFFICE OF MANAGEMENT AND BUDGET

SEC. 501. (a) It shall be the duty of the Mayor in preparing an annual budget for the government of the District to develop meaningful intercity expenditure and revenue comparisons based on data supplied by the Bureau of the Census, and to identify elements of cost and benefits to the District which result from the unusual role of the District as the Nation's Capital. The results of the studies conducted by the Mayor under this subsection shall be made available to the Council and to the Federal Office of Management and Budget for their use in reviewing and revising the Mayor's request with respect to the level of the appropriation for the annual Federal payment to the District. Such Federal payment should operate to encourage efforts on the part of the government of the District to maintain and increase its level of revenues and to seek such efficiencies and economies in the management of its programs as are possible.

(b) The Mayor, in studying and identifying the costs and benefits to the District brought about by its role as the Nation's Capital, should to the extent feasible among other elements, consider—

(1) revenues unobtainable because of the relative lack of taxable commercial and industrial property;

(2) revenues unobtainable because of the relative lack of taxable business income;

(3) potential revenues that would be realized if exemptions from District taxes were eliminated;

(4) net costs, if any, after considering other compensation for tax base deficiencies and direct and indirect taxes paid, of providing services to tax-exempt nonprofit organizations and corporate offices doing business only with the Federal Government;

(5) recurring and nonrecurring costs of unreimbursed services to the Federal Government;

(6) other expenditure reqirements placed on the District by the Federal Government which are unique to the District;

(7) benefits of Federal grants-in-aid relative to aid given other States and local governments;

(8) recurring and nonrecurring costs of unreimbursed services rendered the District by the Federal Government; and

(9) relative tax burden on District residents compared to that of residents in other jurisdictions in the Washington, District of Columbia, metropolitan area and in other cities of comparable size.

(c) The Mayor shall submit his request, with respect to the amount of an annual Federal payment, to the Council. The Council shall by act approve, disapprove, or modify the Mayor's request. After the action of the Council, the Mayor shall, by December 1 of each calendar year, in accordance with the provisions in the Budget and Accounting Act, 1921 (31 U.S.C. 2), submit such request to the President for submission to the Congress. Each request regarding an annual Federal payment shall be submitted to the President seven months prior to the beginning of the fiscal year for which such request is made and shall include a request for an annual Federal payment for the next following fiscal year.

AUTHORIZATION OF APPROPRIATIONS

SEC. 502. Notwithstanding any other provision of law, there is authorized to be appropriated as the annual Federal payment to the District of Columbia for the fiscal year ending June 30, 1975, the sum of $230,000,000; for

the fiscal year ending June 30, 1976, the sum of $254,000,000; for the fiscal year ending September 30, 1977, the sum of $280,000,000; for the fiscal year ending September 30, 1978, and for each fiscal year thereafter, the sum of $300,000,000. For the period July 1, 1976, through September 30, 1976, there is authorized to be appropriated a Federal payment of $70,000,000. (Amended Aug. 29, 1974, Pub. L. 93-395, § 1(7), 88 Stat. 793.)

TITLE VI—RESERVATION OF CONGRESSIONAL AUTHORITY

RETENTION OF CONSTITUTIONAL AUTHORITY

SEC. 601. Notwithstanding any other provision of the Act, the Congress of the United States reserves the right, at any time, to exercise its constitutional authority as legislature for the District, by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the Council by this Act, including legislation to amend or repeal any law in force in the District prior to or after enactment of this Act and any act passed by the Council.

LIMITATIONS ON THE COUNCIL

SEC. 602. (a) The Council shall have no authority to pass any act contrary to the provisions of this Act except as specifically provided in this Act, or to—

(1) impose any tax on property of the United States or any of the several States;

(2) lend the public credit for support of any private undertaking;

(3) enact any act, or enact any act to amend or repeal any Act of Congress, which concerns the functions or property of the United States or which is not restricted in its application exclusively in or to the District;

(4) enact any act, resolution, or rule with respect to any provision of title 11 of the District of Columbia Code (relating to organization and jurisdiction of the District of Columbia courts);

(5) impose any tax on the whole or any portion of the personal income, either directly or at the source thereof, of any individual not a resident of the District (the terms "individual" and "resident" to be understood for the purposes of this paragraph as they are defined in section 4 of title I of the District of Columbia Income and Franchise Tax Act of 1947) [D.C. Code, sec. 47-1551c];

(6) enact any act, resolution, or rule which permits the building of any structure within the District of Columbia in excess of the height limitations contained in section 5 of the Act of June 1, 1910 (D.C. Code, sec. 5-405), and in effect on the date of enactment of this Act;

(7) enact any act, resolution, or regulation with respect to the Commission on Mental Health;

(8) enact any act or regulation relating to the United States District Court for the District of Columbia or any other court of the United States in the District other than the District courts, or relating to the duties or powers of the United States attorney or the United States Marshal for the District of Columbia; or

(9) enact any act, resolution, or rule with respect to any provision of title 23 of the District of Columbia Code (relating to criminal procedure), or with respect to any provision of any law codified in title 22 or 24 of the District of Columbia Code (relating to crimes and treatment of prisoners) during the twenty-four full calendar months immediately following the day on which the members of the Council first elected pursuant to this Act take office.

(b) Nothing in this Act shall be construed as vesting in the District government any greater authority over the National Zoological Park, the National Guard of the District of Columbia, the Washington Aqueduct, the National Capital Planning Commission, or, except as otherwise specifically provided in this Act, over any Federal agency, than was vested in the Commissioner prior to the effective date of title IV of this Act.

(c) (1) Except acts of the Council which are submitted to the President in accordance with the Budget and Ac-

counting Act, 1921 [31 U.S.C. 1 et seq.], any act which the Council determines according to section 412(a), should take effect immediately because of emergency circumstances, and acts proposing amendments to title IV of this Act, the Chairman of the Council shall transmit to the Speaker of the House of Representatives, and the President of the Senate a copy of each act passed by the Council and signed by the Mayor, or vetoed by the Mayor and repassed by two-thirds of the Council present and voting (and with respect to which the President has not sustained the Mayor's veto), and every act passed by the Council and allowed to become effective by the Mayor without his signature. Except as provided in paragraph (2), no such act shall take effect until the end of the 30-day period (excluding Saturdays, Sundays, and holidays, and any day on which either House is not in session) beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate and then only if during such 30-day period both Houses of Congress do not adopt a concurrent resolution disapproving such act. The provisions of section 604, except subsections (d), (e), and (f) of such section, shall apply with respect to any concurrent resolution disapproving any act pursuant to this paragraph.

(2) In the case of any such act transmitted by the Chairman with respect to any Act codified in the 22, 23, or 24 of the District of Columbia Code, such act shall take effect at the end of the 30-day period beginning on the day such act is transmitted by the Chairman to the Speaker of the House of Representatives and the President of the Senate only if during such 30-day period one House of Congress does not adopt a resolution disapproving such act. The provisions of section 604, relating to an expedited procedure for consideration of resolutions, shall apply to a simple resolution disapproving such act as specified in this paragraph.

BUDGET PROCESS; LIMITATIONS ON BORROWING AND SPENDING

SEC. 603. (a) Nothing in this Act shall be construed as making any change in existing law, regulation, or basic procedure and practice relating to the respective roles of the Congress, the Persident, the Federal Office of Management and Budget, and the Comptroller General of the United States in the preparation, review, submission, examination, authorization and appropriation of the total budget of the District of Columbia government.

(b) (1) No general obligation bonds (other than bonds to refund outstanding indebtedness) or Treasury capital project loans shall be issued during any fiscal year in an amount which would cause the amount of principal and interest required to be paid both serially and into a sinking fund in any fiscal year on the aggregate amounts of all outstanding general obligation bonds and such Treasury loans, to exceed 14 per centum of the District revenues (less court fees, any fees or revenues directed to servicing revenue bonds, retirement contributions, revenues from retirement systems, and revenues derived from such Treasury loans and the sale of general obligation or revenue bonds) which the Mayor estimates and the District of Columbia Auditor certifies, will be credited to the District during the fiscal year in which the bonds will be issued. Treasury capital project loans include all borrowings from the United States Treasury, except those funds advanced to the District by the Secretary of the Treasury under the provisions of section 2501, title 47 of the District of Columbia Code, as amended.

(2) Obligations incurred pursuant to the authority contained in the District of Columbia Stadium Act of 1957 (71 Stat. 619; D.C. Code title 2, chapter 17, subchapter II), and obligations incurred by the agencies transferred or established by sections 201 and 202, whether incurred before or after such transfer or establishment, shall not be included in determining the aggregate amount of all outstanding obligations subject to the limitation specified in the preceding subsection.

(3) The 14 per centum limitation specified in paragraph (1) shall be calculated in the following manner:

(A) Determine the dollar amount equivalent to 14 percent of the District revenues (less court fees, any fees or revenues directed to servicing revenue bonds, retirement revenues derived from such Treasury loans and the sale of general obligation or revenue bonds) which the Mayor estimates, and the District of Columbia Auditor certifies, will be credited to the District during the fiscal year for which the bonds will be issued.

(B) Determine the actual total amount of principal and interest to be paid in each fiscal year for all outstanding general obligation bonds and such Treasury loans.

(C) Determine the amount of principal and interest to be paid during each fiscal year over the term of the proposed general obligation bond or such Treasury loan to be issued.

(D) If in any one fiscal year the sum arrived at by adding subparagraphs (B) and (C) exceeds the amount determined under subparagraph (A), then the proposed general obligation bond or such Treasury loan in subparagraph (C) cannot be issued.

(c) The Council shall not approve any budget which would result in expenditures being made by the District Government, during any fiscal year, in excess of all resources which the Mayor estimates will be available from all funds available to the District for such fiscal year. The budget shall identify any tax increases which shall be required in order to balance the budget as submitted. The Council shall be required to adopt such tax increases to the extent its budget is approved. For the purposes of this section, the Council shall use a Federal payment amount not to exceed the amount authorized by Congress. In determining whether any such budget would result in expenditures so being made in excess of such resources, amounts included in the budget estimates of the District of Columbia courts in excess of the recommendations of the Council shall not be applicable.

(d) The Mayor shall not forward to the President for submission to Congress a budget which is not balanced according to the provisions of subsection 603(c).

(e) Nothing in this Act shall be construed as affecting the applicability to the District government of the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 665), the so-called Anti-Deficiency Act.

CONGRESSIONAL ACTION ON CERTAIN DISTRICT MATTERS

SEC. 604. (a) This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such these provisions are deemed a part of the rule of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rule (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) For the purpose of this section, "resolution" means only a concurrent resolution, the matter after the resolving clause of which is as follows: "That the ——approves/disapproves of the action of the District of Columbia Council describes as follows: ——— .", the blank spaces therein being appropriately indicated; but does not include a resolution which specifies more than one action.

(c) A resolution with respect to Council action shall be referred to the Committee on the District of Columbia of the House of Representatives, or the Committee on the District of Columbia of the Senate, by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) If the committee to which a resolution has been referred has not reported it at the end of twenty calendar

days after its introduction, it is in order to move to discharge the committee from further consideration of any other resolution with respect to the same Council action which has been referred to the committee.

(e) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(f) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same action.

(g) When the committee has reported, or has been discharged from further consideration of, a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(h) Debate on the resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(i) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(j) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House

of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

TITLE VII—REFERENDUM; SUCCESSION IN GOVERNMENT; TEMPORARY PROVISIONS; MISCELLANEOUS; AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION ACT; RULES OF CONSTRUCTION; AND EFFECTIVE DATES

PART A—CHARTER REFERENDUM

REFERENDUM

SEC. 701. On a date to be fixed by the Board of Elections,[1] not more than five months after the date of enactment of this Act, a referendum (in this part referred to as the "charter referendum") shall be conducted to determine whether the registered qualified electors of the District accept the charter set forth as title IV of this Act.

BOARD OF ELECTIONS AUTHORITY

SEC. 702. (a) The Board of Elections shall conduct the charter referendum and certify the results thereof as provided in this part.

(b) Notwithstanding the fact that such section does not otherwise take effect unless the charter is accepted under this title, the applicable provisions of part E of title VII of this Act shall govern the Board of Elections in the performance of its duties under this Act.

REFERENDUM BALLOT AND NOTICE OF VOTING

SEC. 703. (a) The charter referendum ballot shall contain the following, with a blank space appropriately filled:

"The District of Columbia Self-Government and Governmental Reorganization Act, enacted ———— [Dec. 24, 1973], proposes to establish a charter for the governance of the District of Columbia, but provides that the

[1] May 7, 1974.

charter shall take effect only if it is accepted by a majority of the registered qualified voters of the District voting on this issue.

"Indicate in one of the squares provided below whether you are for or against the charter.

"☐ For the charter
"☐ Against the charter.

"In addition, the Act referred to above authorizes the establishment of advisory neighborhood councils if a majority of the registered qualified voters of the District voting on this issue in this referendum vote for the establishment of such councils.

"Indicate in one of the squares provided below whether you are for or against the establishment of Advisory Neighborhood Councils.

"☐ For Advisory Neighborhood Councils
"☐ Against Advisory Neighborhood Councils".

(b) Voting may be by paper ballot or by voting machine. The Board of Elections may make such changes in the second and fourth paragraphs of the charter referendum ballot as it determines to be necessary to permit the use of voting machines if such machines are used.

(c) Not less than five days before the date of the charter referendum, the Board of Elections shall mail to each registered qualified elector (1) a sample of the charter referendum ballot, and (2) information showing the polling place of such elector and the date and hours of voting.

(d) Not less than one day before the charter referendum, the Board of Elections shall publish, in one or more newspapers of general circulation published in the District, a list of the polling places and the date and hours of voting. (Amended Apr. 24, 1974, Pub. L. 93-272, § 1, 88 Stat. 93.)

ACCEPTANCE OR NONACCEPTANCE OF CHARTER

SEC. 704. (a) If a majority of the registered qualified electors voting in the charter referendum vote for the

charter, the charter shall be considered accepted as of the time the Board of Elections certifies the result of the charter referendum to the President of the United States, as provided in subsection (b).

(b) The Board of Elections shall, within a reasonable time, but in no event more than thirty days after the date of the charter referendum, certify the results of the charter referendum to the President of the United States and to the Secretary of the Senate and the Clerk of the House of Representatives.

PART B—SUCCESSION IN GOVERNMENT

ABOLISHMENT OF EXISTING GOVERNMENT AND TRANSFER OF FUNCTIONS

SEC. 711. The District of Columbia Council, the offices of Chairman of the District of Columbia Council, Vice Chairman of the District of Columbia Council, and the seven other members of the District of Columbia Council, and the offices of the Commissioner of the District of Columbia and Assistant to the Commissioner of the District of Columbia, as established by Reorganization Plan Numbered 3 of 1967, are abolished as of noon January 2, 1975. This subsection [1] shall not be construed to reinstate any governmental body or office in the District abolished in said plan or otherwise heretofore.

CERTAIN DELEGATED FUNCTIONS AND FUNCTIONS OF CERTAIN AGENCIES

SEC. 712. No function of the District of Columbia Council (established under Reorganization Plan Numbered 3 of 1967) or of the Commissioner of the District of Columbia which such District of Columbia Council or Commissioner has delegated to an officer, employee, or agency (including any body of or under such agency) of the District, nor any function now vested pursuant to section 501 of Reorganization Plan Numbered 3 of 1967

[1] So in original. Probably should be "section".

in the District Public Service Commission, Zoning Advisory Council, Board of Zoning Adjustment, Office of the Recorder of Deeds, or Armory Board, or in any officer, employee, or body of or under such agency, shall be considered as a function transferred to the Council pursuant to section 404(a) of this Act. Each such function is hereby transferred to the officer, employee, or agency (including any body of or under such agency), to whom or to which it was delegated, or in whom or in which it has remained vested, until the Mayor or Council established under this Act, or both, pursuant to the powers herein granted, shall revoke, modify, or transfer such delegation or vesting.

TRANSFER OF PERSONNEL, PROPERTY, AND FUNDS

SEC. 713. (a) In each case of the transfer, by any provision of this Act, of functions to the Council, to the Mayor, or to any agency or officer, there are hereby authorized to be transferred (as of the time of such transfer of functions) to the Council, to the Mayor, to such agency, or to the agency of which such officer is the head, for use in the administration of the functions of the Council or such agency or officer, the personnel (except the Commissioner of the District of Columbia, the Assistant to the Commissioner, the Chairman of the District of Columbia Council, the Vice Chairman of the District of Columbia Council, the other members thereof, all of whose offices are abolished by this Act), property, records, and unexpended balances of appropriations and other funds which relate primarily to the functions so transferred.

(b) If any question arises in connection with the carrying out of subsection (a), such questions shall be decided—

(1) in the case of functions transferred from a Federal officer or agency, by the Director of the Office of Management and Budget; and

(2) in the case of other functions (A) by the Council, or in such manner as the Council shall provide, if such functions are transferred to the Council, and (B) by the

Mayor if such functions are transferred to him or to any other officer or agency.

(c) Any of the personnel authorized to be transferred to the Council, the Mayor, or any agency by this section which the Council or the head of such agency shall find to be in excess of the personnel necessary for the administration of its or his function shall, in accordance with law, be retransferred to other positions in the District or Federal Government or be separated from the service.

(d) No officer or employee shall, by reason of his transfer to the District government under this Act or his separation from service under this Act, be deprived of any civil service rights, benefits, and privileges held by him prior to such transfer or any right of appeal or review he may have by reason of his separation from service.

EXISTING STATUTES, REGULATIONS, AND OTHER ACTIONS

SEC. 714. (a) Any statute, regulation, or other action in respect of (and any regulation, or other action issued, made, taken, or granted by) any officer or agency from which any function is transferred by this Act shall, except to the extent modified or made inapplicable by or under authority of law, continue in effect as if such transfer had not been made; but after such transfer, references in such statute, regulation, or other action to an officer or agency from which a transfer is made by this Act shall be held and considered to refer to the officer or agency to which the transfer is made.

(b) As used in subsection (a), the term "other action" includes without limitation, any rule, order, contract, compact, policy, determination, directive, grant, authorization, permit, requirement, or designation.

(c) Unless otherwise specifically provided in this Act, nothing contained in this Act shall be construed as affecting the applicability to the District government of personnel legislation relating to the District government until such time as the Council may otherwise elect to provide equal or equivalent coverage.

PENDING ACTIONS AND PROCEEDINGS

SEC. 715. (a) No suit, action, or other judicial proceeding lawfully commenced by or against any officer or agency in his or its official capacity or in relation to the exercise of his or its official functions, shall abate by reason of the taking effect of any provision of this Act; but the court, unless it determines that the survival of such suit, action, or other proceedings is not necessary for purposes of settlement of the questions involved, shall allow the same to be maintained, with such substitutions as to parties as are appropriate.

(b) No administrative action or proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this Act, but such action or proceeding shall be continued with such substitutions as to parties and officers or agencies as are appropriate.

VACANCIES RESULTING FROM ABOLISHMENT OF OFFICERS OF COMMISSIONER AND ASSISTANT TO THE COMMISSIONER

SEC. 716. Until the 1st day of July next after the first Mayor takes office under this Act no vacancy occurring in any District agency by reason of section 711, abolishing the offices of Commissioner of the District of Columbia and Assistant to the Commissioner. shall affect the power of the remaining members of such agency to exercise its functions; but such agency may take action only if a majority of the members holding office vote in favor of it.

STATUS OF THE DISTRICT

SEC. 717. (a) All of the territory constituting the permanent seat of the Government of the United States shall continue to be designated as the District of Columbia. The District of Columbia shall remain and continue a body corporate, as provided in section 2 of the Revised Statutes relating to the District (D.C. Code, sec. 1-102). Said Corporation shall continue to be charged with all the duties, obligations, responsibilities, and liabilities, and to be vested with all of the powers, rights, privileges, immunities, and assets, respectively, imposed upon and vested in said Corporation or the Commissioner.

(b) No law or regulation which is in force on the effective date of title IV of this Act shall be deemed amended or repealed by this Act except to the extent specifically provided herein or to the extent that such law or regulation is inconsistent with this Act, but any such law or regulation may be amended or repealed by act or resolution as authorized in this Act, or by Act of Congress, except that, nothwithstanding the provisions of section 752 of this Act, such authority to repeal shall not be construed as authorizing the Council to repeal or otherwise alter, by amendment or otherwise, any provision of subchapter III of chapter 73 of title 5, United States Code, in whole or in part.

(c) Nothing contained in this section shall affect the boundary line between the District of Columbia and the Commonwealth of Virginia as the same was established or may be subsequently established under the provisions of title I of the Act of October 31, 1945 (59 Stat. 552) [D.C. Code, sec. 101 note].

CONTINUATION OF THE DISTRICT OF COLUMBIA COURT SYSTEM

SEC. 718. (a) The District of Columbia Court of Appeals, the Superior Court of the District of Columbia, and the District of Columbia Commission on Judicial Disabilities and Tenure shall continue as provided under the District of Columbia Court Reorganization Act of 1970 subject to the provisions of part C of title IV of this Act and section 602(a)(4).

(b) The term and qualifications of any judge of any District of Columbia court, and the term and qualifications of any member of the District of Columbia Commission on Judicial Disabilities and Tenure appointed prior to the effective date of title IV of this Act shall not be affected by the provisions of part C of title IV of this Act. No provision of this Act shall be construed to extend the term of any such judge or member of

such Commission. Judges of the District of Columbia courts and members of the District of Columbia Commission on Judicial Disabilities and Tenure appointed after the effective date of title IV of this Act shall be appointed according to part C of such title IV.

(c) Nothing in this Act shall be construed to amend, repeal, or diminish the duties, rights, privileges, or benefits accruing under sections 1561 through 1571 of title 11 of the District of Columbia Code, and sections 703 and 904 of such title, dealing with the retirement and compensation of the judges of the District of Columbia courts.

CONTINUATION OF THE BOARD OF EDUCATION

SEC. 719. The term of any member elected to the District of Columbia Board of Education, and the powers and duties of the Board of Education shall not be affected by the provisions of section 495. No provision of such section shall be construed to extend the term of any such member or to terminate the term of any such member.

PART C—TEMPORARY PROVISIONS

POWERS OF THE PRESIDENT DURING TRANSITIONAL PERIOD

SEC. 721. The President of the United States is hereby authorized and requested to take such action during the period following the date of the enactment of this Act and ending on the date of the first meeting of the Council, by Executive order or otherwise, with respect to the administration of the functions of the District government, as he deems necessary to enable the Board of Elections properly to perform its functions under this Act.

REIMBURSABLE APPROPRIATIONS FOR THE DISTRICT

SEC. 722. (a) The Secretary of the Treasury is authorized to advance to the District of Columbia the sum of $750,000, out of any money in the Treasury not otherwise appropriate, for use (1) in paying the expenses of the Board of Elections (including compensation of the members thereof), and (2) in otherwise carrying into effect the provisions of this Act.

(b) The full amount expended out of the money advanced pursuant to this section shall be reimbursed to the United States, without interest, during the second fiscal year which begins after the effective date of title IV, from the general fund of the District.

INTERIM LOAN AUTHORITY

SEC. 723. (a) The Mayor is authorized to accept loans for the District from the Treasury of the United States, and the Secretary is authorized to lend to the Mayor, such sums as the Mayor may determine are required to complete capital projects for which construction and construction services funds have been authorized or appropriated, as the case may be, by Congress prior to the effective date of title IV. In addition, such loans may include funds to pay the District's share of the cost of the adopted regional system specified in the National Capital Transportation Act of 1969 [D.C. Code, sec. 1-1441 et seq.].

(b) Loans advanced pursuant to this section during any six-month period shall be at a rate of interest determined by the Secretary as of the beginning of such period, which, in his judgment, would reflect the cost of money to the Treasury for borrowing at a maturity approximately equal to the period of time the loan is outstanding.

(c) Subject to the limitations contained in section 603 (b), there are authorized to be appropriated such sums as may be necessary to make loans under this section.

POLITICAL PARTICIPATION IN CERTAIN ELECTIONS FIRST HELD UNDER THIS ACT

SEC. 724. (a) In order to provide continuity in the government of the District of Columbia during the transition from the appointed government to the elected government provided for under this Act, no person employed

by the United States or by the government of the District of Columbia shall be prohibited by reason of such employment—

(1) from being a candidate in the first primary election and general election held under this Act for the office of Mayor or Chairman or member of the Council of the District of Columbia provided for under title IV of this Act, and

(2) if such a candidate, from taking an active part in political management or political campaigns in any election referred to in paragraph (1) of this subsection.

(b) Such candidacy shall be deemed to have commenced on the day such person obtains from the Board of Elections an official nominating petition with his name stamped thereon, and shall terminate—

(1) in the case of such candidate who ceases to be eligible as a nominee for the office with respect to which such petition was obtained by reason of his inability or failure to qualify as a bona fide nominee prior to the expiration of the final date for filing such petition under the election laws of the District of Columbia, on the day following such expiration date;

(2) in the case of such candidate who is elected to any such office with respect to which such nominating petition was obtained, on the day such candidate takes office following the election held with respect thereto;

(3) in the case of such candidate who is defeated in a primary election held to nominate candidates for the office with respect to which such nominating petition was obtained, on the expiration of the thirty day period following the date of such primary election; and

(4) in the case of such candidate who fails to be elected in a general election to any such office with respect to which such nominating petition was obtained, on the expiration of the thirty day period following the date of such election.

(c) The provisions of this section shall terminate as of January 2, 1975. (Added Apr. 17, 1974, Pub. L. 93-268, § 3(a), 88 Stat. 86.)

PART D.—MISCELLANEOUS

AGREEMENTS WITH UNITED STATES

SEC. 731. (a) For the purpose of preventing duplication of effort or for the purpose of otherwise promoting efficiency and economy, any Federal officer or agency may furnish services to the District government and any District officer or agency may furnish services to the Federal Government. Except where the terms and conditions governing the furnishing of such services are prescribed by other provisions of law, such services shall be furnished pursuant to an agreement (1) negotiated by the Federal and District authorities concerned, and (2) approved by the Director of the Federal Office of Management and Budget and by the Mayor. Each such agreement shall provide that the cost of furnishing such services shall be borne in the manner provided in subsection (c) by the government to which such services are furnished at rates or charges based on the actual cost of furnishing such services.

(b) For the purpose of carrying out any agreement negotiated and approved pursuant to subsection (a), any District officer or agency may in the agreement delegate any of his or its functions to any Federal officer or agency, and any Federal officer or agency may in the agreement delegate any of his or its functions to any District officer or agency. Any function so delegated may be exercised in accordance with the terms of the delegation.

(c) The cost to each Federal officer and agency in furnishing services to the District pursuant to any such agreement are authorized to be paid, in accordance with the terms of the agreement, out of appropriations available to the District officers and agencies to which such services are furnished. The costs to each District officer and agency in furnishing services to the Federal Govern-

ment pursuant to any such agreement are authorized to be paid, in accordance with the terms of the agreement, out of appropriations made by the Congress or other funds available to the Federal officers and agencies to which such services are furnished, except that the Chief of the Metropolitan Police shall on a nonreimbursable basis when requested by the Director of the United States Secret Service assist the Secret Service and the Executive Protection Service in the performance of their respective duties under section 3056 of title 18 of the United States Code and section 302 of title 3 of the United States Code.

PERSONAL INTEREST IN CONTRACTS OR TRANSACTIONS

SEC. 732. Any officer or employee of the District who is convicted of a violation of section 208 of title 18, United States Code, shall forfeit his office or position.

COMPENSATION FROM MORE THAN ONE SOURCE

SEC. 733. (a) Except as provided in this Act, no person shall be ineligible to serve or to receive compensation as a member of the Board of Elections because he occupies another office or position or because he receives compensation (including retirement compensation) from another source.

(b) The right to another office or position or to compensation from another source otherwise secured to such a person under the laws of the United States shall not be abridged by the fact of his service or receipt of compensation as a member of such Board, if such service does not interfere with the discharge of his duties in such other office or position.

ASSISTANCE OF THE UNITED STATES CIVIL SERVICE COMMISSION IN DEVELOPMENT OF DISTRICT MERIT SYSTEM

SEC. 734. The United States Civil Service Commission is hereby authorized to advise and assist the Mayor and the Council in the further development of the merit sys-

tem or systems required by section 422(3) and the said Commission is authorized to enter into agreements with the District government to make available its registers of eligibles as a recruiting source to fill District positions as needed. The costs of any specific services furnished by the Civil Service Commission may be compensated for under the provisions of section 731 of this Act.

REVENUE SHARING RESTRICTIONS

SEC. 735. Section 141(c) of the State and Local Fiscal Assistance Act of 1972 (86 Stat. 919) [31 U.S.C. 1261] is amended to read as follows:

"(c) DISTRICT OF COLUMBIA.—For purposes of this title, the District of Columbia shall be treated both—

"(1) as a State (and any reference to the Governor of a State shall, in the case of the District of Columbia, be treated as a reference to the Mayor of the District of Columbia), and

"(2) as a county area which has no units of local government (other than itself) within its geographic area.".

INDEPENDENT AUDIT

SEC. 736. (a) In addition to the audit carried out under section 455, the accounts and operations of the District government shall be audited annually by the General Accounting Office in accordance with such principles and procedures, and in such detail, and under such rules and regulations as may be prescribed by the Comptroller General of the United States. In the determination of the auditing procedures to be followed and the extent of the examination of vouchers and other documents, the Comptroller General shall give due regard to generally accepted principles of auditing, including consideration of the effectiveness of the accounting organizations and systems, internal audit and control, and related administrative practices. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or

property belonging to or in use by the District and necessary to facilitate the audit, and such representatives shall be afforded full facilities for auditing the accounts and operations of the District government.

(b) (1) The Comptroller General shall submit his audit reports to the Congress, the Mayor, and the Council. The reports shall set forth the scope of the audits and shall include such comments and information as the Comptroller General may deem necessary to keep the Congress, the Mayor, and the Council informed of the operations to which the reports relate, together with such recommendations with respect thereto as the Comptroller General may deem advisable.

(2) After the Mayor has had an opportunity to be heard, the Council may make such report, together with such other material as it deems pertinent thereto, available for public inspection.

(3) The Mayor, within ninety days after receipt of the audit from the Comptroller General, shall state in writing to the Council, with a copy to the Congress, what has been done to comply with the recommendations made by the Comptroller General in the report.

ADJUSTMENTS

SEC. 737. (a) Subject to section 731, the Mayor, with the approval of the Council, and the Director of the Office of Management and Budget, is authorized and empowered to enter into an agreement or agreements concerning the manner and method by which amounts owed by the District to the United States, or by the United States to the District, shall be ascertained and paid.

(b) The United States shall reimburse the District for necessary expenses incurred by the District in connection with assemblages, marches, and other demonstrations in the District which relate primarily to the Federal Government. The manner and method of ascertaining and paying the amounts needed to so reimburse the District shall be determined by agreement entered into in accordance with subsection (a) of this section.

(c) Each officer and employee of the District required to do so by the Council shall provide a bond which [sic] such surety and in such amount as the Council may require. The premiums for all such bonds shall be paid out of appropriations for the District.

ADVISORY NEIGHBORHOOD COUNCILS

SEC. 738. (a) The Council shall by act divide the District into neighborhood council areas and, upon receiving a petition signed by at least 5 per centum of the registered qualified electors of a neighborhood council area, shall establish for that neighborhood an elected advisory neighborhood council. In designating such neighborhoods, the Council shall consider natural geographic boundaries, election districts, and divisions of the District made for the purpose of administration of services.

(b) Elections for members of each advisory neighborhood council shall be nonpartisan, shall be scheduled to coincide with the elections of members of the Board of Education held in the District, and shall be administered by the Board of Elections. Advisory neighborhood council members shall be elected from single member districts within each neighborhood council area by the registered qualified electors thereof.

(c) Each advisory neighborhood council—

(1) may advise the District government on matters of public policy including decisions regarding planning, streets, recreation, social services programs, health, safety, and sanitation in that neighborhood council area;

(2) may employ staff and expand, for public purposes within its neighborhood council area, public funds and other funds donated to it; and

(3) shall have such other powers and duties as may be provided by act of the Council.

(d) In the manner provided by act of the Council, in addition to any other notice required by law, timely notice shall be given to each advisory neighborhood council of requested or proposed zoning changes, variances, public improvements, licenses or permits of significance to neighborhood planning and development within its neigh-

borhood council area for its review, comment, and recommendation.

(e) In order to pay the expenses of the advisory neighborhood councils, enable them to employ such staff as may be necessary, and to conduct programs for the welfare of the people in a neighborhood council area, the District government shall apportion to each advisory neighborhood council, out of the revenue of the District received from the tax on real property in the District including improvements thereon, a sum not less than that part of such revenue raised by levying 1 cent per $100 of assessed valuation which bears the same ratio to the full sum raised thereby as the population of the neighborhood bears to the population of the District. The Council may authorize additional methods of financing advisory neighborhood councils.

(f) The Council shall by act make provisions for the handling of funds and accounts by each advisory neighborhood council and shall establish guidelines with respect to the employment of persons by each advisory neighborhood council which shall include fixing the status of such employees with respect to the District government, but all such provisions and guidelines shall be uniform for all advisory neighborhood councils and shall provide that decisions to employ and discharge employees shall be made by the advisory neighborhood council. These provisions shall conform to the extent practicable to the regular budgetary, expenditure and auditing procedures and the personnel merit system of the District.

(g) The Council shall have authority in accordance with the provisions of this Act, to legislate with respect to the advisory neighborhood councils established in this section.

(h) The foregoing provisions of this section shall take effect only if agreed to in accordance with the provisions of section 703(a) of this Act.

NATIONAL CAPITAL SERVICE AREA

SEC. 739. (a) There is established within the District of Columbia the National Capital Service Area which

shall include, subject to the following provisions of this section, the principal Federal monuments, the White House, the Capitol Building, the United States Supreme Court Building, and the Federal executive, legislative, and judicial office buildings located adjacent to the Mall and the Capitol Building, and is more particularly described in subsection (f).

(b) There is established in the Executive Office of the President the National Capital Service Director who shall be appointed by the President. The President, through the National Capital Service Director, shall assure that there is provided, utilizing District of Columbia governmental services to the extent practicable, within the area specified in subsection (a) and particularly described in subsection (f), adequate fire protection and sanitation services. Except with respect to that portion of the National Capital Service Area comprising the United States Capitol Buildings and Grounds as defined in sections 1 and 16 of the Act of July 31, 1946, as amended (40 U.S.C. 193a and 193m) [D.C. Code, secs. 9-118, 9-132], the United States Supreme Court Building and Grounds as defined in section 11 of the Act of August 18, 1949, as amended (40 U.S.C. 13p), and the Library of Congress Buildings and Grounds as defined in section 11 of the Act of August 4, 1950, as amended (2 U.S.C. 167j), the National Capital Service Director shall assure that there is provided within the remainder of such area specified in subsection (a) and subsection (f), adequate police protection and maintenance of streets and highways.

(c) The National Capital Service Director shall be entitled to receive compensation at the maximum rate as may be established from time to time for level IV of the Executive Schedule of section 5314 of title 5 of the United States Code. The Director may appoint, subject to the provisions of title 5 of the United States Code governing appointments in the competitive service, and fix the pay of, in accordance with the provisions of chapter 51 and subchapter 3 of chapter 53 of such title relating to classification and General Schedule pay rates, such personnel as may be necessary.

(d) Section 45 of the Act entitled "An Act to provide for the organization of the militia of the District of Columbia", approved March 1, 1889 (D.C. Code, sec. 39-603), is amended by inserting after "United States Marshal for the District of Columbia," the following: "or for the National Capital Service Director,".

(e) (1) Within one year after the effective date of this section, the President is authorized and directed to submit to the Congress a report on the feasibility and advisability of combining the Executive Protective Service and the United States Park Police within the National Capital Service Area, and placing them under the National Capital Service Director.

(2) Such report shall include such recommendations, including recommendations for legislative and executive action, as the President deems necessary in carrying out the provisions of paragraph (1) of this subsection.

(f) (1) (A) The National Capital Service Area referred to in subsection (a) is more particularly described as follows:

Beginning at that point on the present Virginia-District of Columbia boundary due west of the northernmost point of Theodore Roosevelt Island and running due east to the eastern shore of the Potomac River;

thence generally south along the shore at the mean high water mark to the northwest corner of the Kennedy Center;

thence east along the north side of the Kennedy Center to a point where it reaches the E Street Expressway;

thence east on the expressway to E Street Northwest and thence east on E Street Northwest to Eighteenth Street Northwest;

thence south on Eighteenth Street Northwest to Constitution Avenue Northwest;

thence east on Constitution Avenue to Seventeenth Street Northwest;

thence north on Seventeenth Street Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue to Jackson Place Northwest;

thence north on Jackson Place to H Street Northwest;

thence east on H Street Northwest to Madison Place Northwest;

thence south on Madison Place Northwest to Pennsylvaina Avenue Northwest;

thence east on Pennsylvania Avenue Northwest to Fifteenth Street Northwest;

thence south on Fifteenth Street Northwest to Pennsylvania Avenue Northwest;

thence southeast on Pennsylvania Avenue Northwest to John Marshal Place Northwest;

thence north on John Marshall Place Northwest to C Street Northwest;

thence east on C Street Northwest to Third Street Northwest;

thence north on Third Street Northwest to D Street Northwest;

thence east on D Street Northwest to Second Street Northwest;

thence south on Second Street Northwest to the intersection of Constitution Avenue Northwest and Louisiana Avenue Northwest;

thence northeast on Louisiana Avenue Northwest to North Capitol Street;

thence north on North Capitol Street to Massachusetts Avenue Northwest;

thence southeast on Massachusetts Avenue Northwest so as to encompass Union Square;

thence following Union Square to F Street Northeast;

thence east on F Street Northeast to Second Street Northeast;

thence south on Second Street Northeast to D Street Northeast;

thence west on D Street Northeast to First Street Northeast;

thence south on First Street Northeast to Maryland Avenue Northeast;

thence generally north and east on Maryland Avenue to Second Street Northeast;

thence south on Second Street Northeast to C Street Southeast;

thence west on C Street Southeast to New Jersey Avenue Southeast;

thence south on New Jersey Avenue Southeast to D Street Southeast;

thence west on D Street Southeast to Canal Street Parkway;

thence southeast on Canal Street Parkway to E Street Southeast;

thence west on E Street Southeast to the intersection of Canal Street Southwest and South Capitol Street;

thence northwest on Canal Street Southwest to Second Street Southwest;

thence south on Second Street Southwest to Virginia Avenue Southwest;

thence generally west on Virginia Avenue to Third Street Southwest;

thence north on Third Street Southwest to C Street Southwest;

thence west on C Street Southwest to Sixth Street Southwest;

thence north on Sixth Street Southwest to Independence Avenue;

thence west on Independence Avenue to Twelfth Street Southwest;

thence south on Twelfth Street Southwest to D Street Southwest;

thence west on D Street Southwest to Fourteenth Street Southwest;

thence south on Fourteenth Street Southwest to the middle of the Washington Channel;

thence generally south and east along the midchannel of the Washington Channel to a point due west of the northern boundary line of Fort Lesley McNair;

thence due east to the side of the Washington Channel;

thence following generally south and east along the side of the Washington Channel at the mean high water mark, to the point of confluence with the Anacostia River,

and along the northern shore at the mean high water mark to the northern most point of the Eleventh Street Bridge;

thence generally south and east along the northern side of the Eleventh Street Bridge to the eastern shore of the Anacostia River;

thence generally south and west along such shore at the mean high water mark to the point of confluence of the Anacostia and Potomac Rivers;

thence generally south along the eastern shore at the mean high water mark of the Potomac River to the point where it meets the present southeastern boundary line of the District of Columbia;

thence south and west along such southeastern boundary line to the point where it meets the present Virginia-District of Columbia boundary;

thence generally north and west up the Potomac River along the Virginia-District of Columbia boundary to the point of beginning.

(B) Where the area in paragraph (1) is bounded by any street, such street, and any sidewalk thereof, shall be included within such area.

(2) Any Federal real property affronting or abutting, as of the date of the enactment of this Act [Dec. 24, 1973], the area described in paragraph (1) shall be deemed to be within such area.

(3) For the purposes of paragraph (2), Federal real property affronting or abutting such area described in paragraph (1) shall—

(A) be deemed to include, but not limited to, Fort Lesley McNair, the Washington Navy Yard, the Anacostia Naval Annex, the United States Naval Station, Bolling Air Force Base, and the Naval Research Laboratory; and

(B) not be construed to include any area situated outside of the District of Columbia boundary as it existed immediately prior to the date of the enactment of this Act, nor be construed to include any portion of the Anacostia Park situated east of the northern side of the Eleventh Street Bridge, or any portion of the Rock Creek Park.

(g) (1) Subject to the provisions of paragraph (2) of this subsection, the President is authorized and directed to conduct a survey of the area described in this section in order to establish the proper metes and bounds of such area, and to file, in such manner and at such place as he may designate, a map and a legal description of such area, and such description and map shall have the same force and effect as if included in this Act, except that corrections of clerical, typographical and other errors in any such legal descriptions and map may be made. In conducting such survey, the President shall make such adjustments as may be necessary in order to exclude from the National Capital Service Area any privately owned properties, and buildings and adjacent parking facilities owned by the District of Columbia government.

(2) In carrying out the provisions of paragraph (1) of this subsection, the President shall, to the extent that such survey, legal description, and map involves areas comprising the United States Capitol Buildings and Grounds as defined in sections 1 and 16 of the Act of July 31, 1946, as amended (40 U.S.C. 193a and 193m) [D.C. Code, secs. 9-118, 9-132], and other buildings and grounds under the care of the Architect of the Capitol, consult with the Architect of the Capitol.

(3) Section 1 of the Act of July 31, 1946, as amended by the Act of October 20, 1967 (60 Stat. 718; 81 Stat. 275; 40 U.S.C. 193a) [D.C. Code, sec. 9-118], is hereby amended to include within the definition of the United States Capitol Grounds, the following streets: "Independence Avenue from the west curb of First Street S.E. to the east curb of First Street S.W., New Jersey Avenue S.E. from the south curb of Independence Avenue to the north curb of D Street S.E., South Capitol Street from the south curb of Independence Avenue to the north curb of D Street; Delaware Avenue S.W. from the south curb of C Street S.W. to the north curb of D Street S.W., C Street from the west curb of First Street S.E. to the intersection of First and Canal Streets, S.W., D Street from the west curb of First Street S.E. to the intersection of Canal Street and Delaware Avenue S.W., that

part of First Street lying west of the outer face of the curb of the sidewalk on the east side thereo from D Street, N.E. to D Street S.E., that part of First Street within the east and west curblines hereof exending from the north side of Pennsylvania Avenue N.W. to the intersection of C Street and Canal Street S.W., including the two circles within such area. Nothing in this section shall be construed as repealing, or otherwise altering, modifying, affecting, or superseding those provisions of law in effect on the date immediately preceding the effective date of title IV of this Act vesting authority in the United States Supreme Court police and Library of Congress police to make arrests in adjacent streets, including First Street N.E. and First Street S.E.".

(4) Section 9 of the Act of July 31, 1946, as amended (40 U.S.C. 212a) [D.C. Code, sec. 9-126], is amended by deleting "or of any State," and inserting in lieu thereof a comma and the following: "of the District of Columbia, or of any State,".

(5) Section 9 of such Act is further amended by deleting the following: ", with the exception of the streets and roadways shown on the map referred to in section 1 of this Act as being under the jurisdiction and control of the Commissioners of the District of Columbia".

(7) Section 1 of the Act of July 31, 1946, as amended (40 U.S.C. 193a) [D.C. Code, sec. 9-118], is amended by deleting ": *Provided*, That those streets and roadways in said United States Capitol Grounds shown on said map as being under the jurisdiction and control of the Commissioners of the District of Columbia shall continue under such jurisdiction and control, and said Commissioners shall be responsible for the maintenance and improvement thereof: *Provided further*," and inserting in lieu thereof a comma and the following: "including those streets and roadways in said United States Capitol Grounds as shown on said map as being under the jurisdiction and control of the Commissioners of the District of Columbia, except that the Commissioner of the District of Columbia shall be responsible for the maintenance and improvement of those portions of the following streets

which are situated between the curblines thereof: Constitution Avenue from First Street N.E. to Second Street N.W., First Street from D Street N.E. to D Street S.E., D Street from First Street S.E. to Canal Street S.W., and First Street from the north side of Louisiana Avenue to the intersection of C Street and Canal Street S.W.: *Provided,*".

(8) Section 9 of the Act of August 18, 1949, as amended (40 U.S.C. 13n), is amended by deleting "or of any State" and inserting in lieu thereof a comma and the following: "any law of the District of Columbia, or of any State,".

(9) Section 9 of the Act of August 4, 1950, as amended (2 U.S.C. 167h), is amended by deleting "or of any State" and inserting in lieu thereof a comma and the following: "any law of the District of Columbia or of any State,".

(b) (1) Except to the extent specifically provided by the provisions of this section, and amendments made by this section, nothing in this section shall be applicable to the United States Capitol Buildings and Grounds as defined in sections 1 and 16 of the Act of July 31, 1946, as amended (40 U.S.C. 193a, 193m) [D.C. Code, secs. 9-118, 9-132], or to any other buildings and grounds under the care of the Architect of the Capitol, the United States Supreme Court Building and Grounds as defined in section 11 of the Act of August 18, 1949, as amended (40 U.S.C. 13p), and the Library of Congress Buildings and Grounds as defined in section 11 of the Act of August 4, 1950, as amended (2 U.S.C. 167j), and except to the extent herein specifically provided, including amendments made by this section, nothing in this section shall be construed to repeal, amend, alter, modify, or supersede any provision of the Act of July 31, 1946, as amended (40 U.S.C. 193a et seq.) [D.C. Code, sec. 9-118 et seq.], or any other of the general laws of the United States or any of the laws enacted by the Congress and applicable exclusively to the District of Columbia, or any rule or regulation promulgated pursuant thereto, in effect on the date immediately preceding the effective date of title IV

of this Act pertaining to said buildings and grounds, or any existing authority, with respect to such buildings and grounds, vested by law, or otherwise, on such date immediately preceding such effective date, in the Senate, the House of Representatives, the Congress, or any committee or commission or board thereof, the Architect of the Capitol, or any other officer of the legislative branch, the Chief Justice of the United States, the Marshal of the Supreme Court of the United States, or the Librarian of Congress.

(2) Notwithstanding the foregoing provision of this section, any of the services and facilities authorized by this Act to be rendered or furnished (including maintenance of streets and highways, and services under section 731 of this Act) shall, as far as practicable, be made available to the Senate, the House of Representatives, the Congress, or any committee or commission or board thereof, the Architect of the Capitol, or any other officer of the legislative branch vested by law or otherwise on such date immediately preceding the effective date of title IV of this Act with authority over such buildings and grounds, the Chief Justice of the United States, the Marshal of the Supreme Court of the United States, and the Librarian of Congress, upon their request, and, if payment would be required for the rendition or furnishing of a similar service or facility to any other Federal agency, payment therefor shall be made by the recipient thereof, upon presentation of proper vouchers, in advance or by reimbursement (as may be agreed upon by the parties rendering and receiving such services).

(i) Except to the extent otherwise specifically provided in the provisions of this section, and amendments made by this section, all general laws of the United States and all laws enacted by the Congress and applicable exclusively to the District of Columbia, including regulations and rules promulgated pursuant thereto, in effect on the date immediately preceding the effective date of title IV of this Act and which, on such date immediately preceding the effective date of such title, are applicable to and within the areas included within the National Capital

Service Area pursuant to this section shall, on and after such effective date, continue to be applicable to and within such National Capital Service Area in the same manner and to the same extent as if this section had not been enacted, and shall remain so applicable until such time as they are repealed, amended, altered, modified, or superseded, and such laws, regulations and rules shall thereafter be applicable to and within such area in the manner and to the extent so provided by any such amendment, alteration, or modification.

(j) In no case shall any person be denied the right to vote or otherwise participate in any manner in any election in the District of Columbia solely because such person resides within the National Capital Service Area.

EMERGENCY CONTROL OF POLICE

SEC. 740. (a) Notwithstanding any other provision of law, whenever the President of the United States determines that special conditions of an emergency nature exist which require the use of the Metropolitan Police force for Federal purposes, he may direct the Mayor to provide him, and the Mayor shall provide, such services of the Metropolitan Police force as the President may deem necessary and appropriate. In no case, however, shall such services made available pursuant to any such direction under this subsection extend for a period in excess of forty-eight hours unless the President has, prior to the expiration of such period, notified the Chairman and ranking minority Members of the Committees on the District of Columbia of the Senate and the House of Representatives, in writing, as to the reason for such direction and the period of time during which the need for such services is likely to continue.

(b) Subject to the provisions of subsection (c) of this section, such services made available in accordance with subsection (a) of this section shall terminate upon the end of such emergency, the expiration of a period of thirty days following the date on which such services are first made available, or the adoption of a resolution by

either the Senate or the House of Representatives providing for such termination, whichever first occurs.

(c) Notwithstanding the foregoing provisions of this section, in any case in which such services are made available in accordance with the provisions of subsection (a) of this section during any period of an adjournment of the Congress sine die, such services shall terminate upon the end of the emergency, the expiration of the thirty-day period following the date on which Congress first convenes following such adjournment, or the adoption of a resolution by either the Senate or the House of Representatives providing for such termination, whichever first occurs.

(d) Except to the extent provided for in subsection (c) of this section, no such services made available pursuant to the direction of the President pursuant to subsection (a) of this section shall extend for any period in excess of thirty days, unless the Senate and the House of Representatives approve a concurrent resolution authorizing such an extension.

HOLDING OFFICE IN THE DISTRICT

SEC. 741. [Repealed, Apr. 17, 1974. Pub. L. 93-268, § 4(c), 38 Stat. 87.]

OPEN MEETINGS

SEC. 742. (a) All meetings (including hearings) of any department, agency, board, or commission of the District government, including meetings of the District Council, at which official action of any kind is taken shall be open to the public. No resolution, rule, act, regulation or other official action shall be effective unless taken, made, or enacted at such meeting.

(b) A written transcript or a transcription shall be kept for all such meetings and shall be made available to the public during normal business hours of the District government. Copies of such written transcripts or copies of such transcriptions shall be available upon request to the public at reasonable cost.

TERMINATION OF THE DISTRICT'S AUTHORITY TO BORROW FROM THE TREASURY

SEC. 743. (a) The first section of the Act entitled "An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City", approved June 6, 1958 (72 Stat. 183; D.C. Code, sec. 9-220), is amended by striking out subsections (b), (c), (d), and (e).

(b) The Act entitled "An Act authorizing loans from the United States Treasury for the expansion of the District of Columbia water system", approved June 2, 1950 (60 Stat. 195; D.C. Code, sec. 43-1540), is repealed.

(c) Title II of the Act entitled "An Act to authorize the financing of a program of public works construction for the District of Columbia, and for other purposes", approved May 18, 1954 (68 Stat. 108), is amended by striking out sections 213, 214, 216, 217, and 218 (D.C. Code, sections 43-1612, 43-1613, 43-1615, 43-1616, and 43-1617), authorizing loans from the United States Treasury for sanitary and combined sewer systems of the District.

(d) Section 402 of title IV of such Act approved May 18, 1954 (68 Sat. 110; D.C. Code, sec. 7-133), authorizing loans from the United States Treasury for the District of Columbia highway construction program, is repealed.

(e) Nothing contained in this section shall be deemed to relieve the District of its obligation to repay any loan made to it under the authority of the Acts specified in the preceding subsections, nor to preclude the District from using the unexpended balance of any such loan appropriated to the District prior to the effective date of this provision, nor to prevent the District from fulfilling the provisions of section 722.

PART E—AMENDMENTS TO THE DISTRICT OF COLUMBIA ELECTION ACT

AMENDMENTS

SEC. 751. The District of Columbia Election Act (D.C. Code, secs. 1-1101—1-1115) is amended as follows:

(1) The first section of such Act (D.C. Code, sec 1-1101) is amended by inserting immediately after "Board of Education,", the following: "the members of the Council of the District of Columbia, the Mayor".

(2) Section 2 of such Act (D.C. Code, sec. 1-1102) is amended by adding at the end thereof the following new paragraphs:

"(8) The term 'Council' or 'Council of the District of Columbia' means the Council of the District of Columbia established pursuant to the District of Columbia Self-Government and Governmental Reorganization Act.

"(9) The term 'Mayor' means the office of Mayor of the District of Columbia established pursuant to the District of Columbia Self-Government and Governmental Reorganization Act."

(3) Subsections (h), (i), (j), and (k) of section 8 of such Act (D.C. Code, sec. 1-1108) are amended to read as follows:

"(h)(1)(A) The Delegate, Mayor, Chairman of the District Council and the four at-large members of the Council shall be elected by the registered qualified electors of the District of Columbia in a general election. Each candidate for the office of Delegate, Mayor, Chairman of the District Council, and at-large members of the Council in any general election shall, except as otherwise provided in subsection (j) of this section and section 10(d), have been elected by the registered qualified electors of the District as such candidate by the next preceding primary election.

"(B)(1) A member of the office of Council (other than the Chairman and any member elected at large) shall

be elected in a general election by the registered qualified electors of the respective ward of the District from which the individual seeking such office was elected as a candidate for such office as provided in clause (ii) of this paragraph.

"(i) Each candidate for the office of member of the Council (other than Chairman and at-large members) shall, except as otherwise provided in subsection (j) of this section and section 10(d), have been elected as such a candidate, by the registered qualified electors of the ward of the District from which such individual was nominated, at the next preceding primary election to fill such office within that ward.

"(2) The nomination and election of any individual to the office of Delegate, Mayor, Chairman of the Council and member of the Council shall be governed by the provisions of this Act. No political party shall be qualified to hold a primary election to select candidate for election to any such office in a general election unless, in the next preceding election year, at least seven thousand five hundred votes were cast in the general election for a candidate of such party for any such office or for its candidates for electors of President and Vice President.

"(i) (1) Each individual in a primary election for candidate for the office of Delegate, Mayor, Chairman of the Council, or at-large member of the Council shall be nominated for any such office by a petition (A) filed with the Board not later than sixty days before the date of such primary election, and (B) signed by at least two thousand registered qualified electors of the same political party as the nominee, or by 1 per centum of the duly registered numbers of such political party, whichever is less, as shown by the record of the Board of Electors as of the one hundred fourteenth day before the date of such election.

"(2) Each individual in a primary election for candidate for the office of member of the Council (other than the Chairman and at-large members) shall be nominated for such office by a petition (A) filed with the Board not later than sixty days before the date of such primary election, and (B) signed by at least two hundred and

fifty persons in the ward from which such individual seeks election who are duly registered in such ward under section 7 of this Act, and who are of the same political party as the nominee.

"(3) A nominating petition for a candidate in a primary election for any such office may not be circulated for signature before the one hundred fourteenth day preceding the date of such election and may not be filed with the Board before the eighty-fifth day preceding such date. The Board may prescribe rules with respect to the preparation and presentation of nominating petitions. The Board shall arrange the ballot of each political party in each such primary election as to enable a voter of such party to vote for nominated candidates of that party.

"(j) (1) A duly qualified candidate for the office of Delegate, Mayor, Chairman of the Council, or member of the Council may, subject to the provisions of this subsection, be nominated directly as such a candidate for election for such office (including any such election to be held to fill a vacancy). Such person shall be nominated by petition (A) filed with the Board not less than sixty days before the date of such general election, and (B) in the case of a person who is a candidate for the office of member of the Council (other than the Chairman or an at-large member), signed by five hundred voters who are duly registered under section 7 in the ward from which the candidate seeks election; and in the case of a person who is a candidate for the office of Delegate, Mayor, Chairman of the Council, or at-large member of the Council, signed by duly registered voters equal in number to 1½ per centum of the total number of registered voters in the District, as shown by the records of the Board as of one hundred fourteen days before the date of such election, or by three thousand persons duly registered under section 7, whichever is less. No signature on such a petition may be counted which have been made on such petition more than one hundred fourteen days before the date of such election.

"(2) Nominations under this subsection for candidates for election in a general election to any office referred to

in paragraph (1) shall be of no force and effect with respect to any person whose name has appeared on the ballot of a primary election for that office held within eight months before the date of such general election.

"(k)(1) In each general election for the office of member of Council (other than the office of the Chairman or an at-large member) the Board shall arrange the ballots in each ward to enable a voter registered in that ward to vote for any one candidate who (A) has been duly elected by any political party in the next preceding primary election for such office from such ward, (B) has been duly nominated to fill a vacancy in such office in such ward pursuant to section 10(d), or (C) has been nominated directly as a candidate for such office in such ward under subsection (j) of this section.

"(2) In each general election for the office of Chairman and member of the Council at large, the Board shall arrange the ballots to enable a registered qualified elector to vote for as many candidates for election as members at large as there are members at large to be elected in such election, including the Chairman. Such candidates shall be only those persons who (A) have been duly elected by any political party in the next preceding primary election for such office, (B) have been duly nominated to fill vacancies in such office pursuant to section 10(d), or (C) have been nominated directly as a candidate under subsection (j) of this section.

"(3) In each general election for the office of Delegate and Mayor, the Board shall arrange the ballots to enable a registered qualified elector to vote for any one of the candidates for any such office who (A) has been duly elected by any political party in the next preceding primary election for such office, (B) has been duly nominated to fill a vacancy in such office pursuant to section 10(d), or (C) has been nominated directly as a candidate under subsection (j) of this section".

(4) Paragraph (3) of section 10(a) of such Act (D.C. Code, sec. 1-1110) is amended (1) by inserting "(A)" immediately before the word "Except", and (2) by adding at the end thereof the following:

"(B) Except as otherwise provided in the case of special elections under this Act, primary election of each political party for the office or member of the Council shall be held on the first Tuesday after the second Monday in September in 1974, and every second year thereafter, and general election for such offices shall be held on the first Tuesday after the first Monday in November in 1974 and every second year thereafter.

"(C) Except as otherwise provided in the case of a special election under this Act, primary elections of each political party for the office of Mayor and Chairman shall be held on the first Tuesday after the second Monday in September of every fourth year, commencing with calendar year 1974, and the general election for such office shall be held on the first Tuesday after the first Monday in November in 1974 and every fourth year thereafter".

(5) Paragraphs (6), (7), (8), and (9) of section 10(a) of such Act (D.C. Code sec. 1-1110) are repealed, and paragraphs (4) and (5) of such section 10(a) are amended to read as follows:

"(4) With respect to special elections required or authorized by this Act, the Board may establish the dates on which such special elections are to be held and prescribe such other terms and conditions as may, in the Board's opinion, be necessary or appropriate for the conduct of such elections in a manner comparable to that prescribed for other elections held pursuant to this Act.

"(5) General elections for members of the Board of Eduction shall be held on the first Tuesday after the first Monday in November of each odd-numbered calendar year."

(6) Section 10(b) of such Act (D.C. Code, sec. 1-1110) is amended by striking out "other than general elections for the Office of Delegate and for members of the Board of Education.".

(7) Section 10(c) of such Act (D.C. Code, sec. 1-1110) is amended by striking out the words "other than an election for members of the Board of Education".

(8) Section 10(d) of such Act (D.C. Code, sec. 1-1110) is amended to read as follows:

"(d) In the event that any official, other than the Delegate, Mayor, member of the Council, member of the Board of Education, or a winner of a primary election for the office of Delegate, Mayor, or member of the Council, elected pursuant to this Act dies, resigns, or becomes unable to serve during his or her term of office leaving no person elected pursuant to this Act to serve the remainder of the unexpired term of office, the successor or successors to serve the remainder of such term shall be chosen pursuant to the rules of the duly authorized party committee, except that such successor shall have the qualifications required by this Act for such office. In the event that such a vacancy occurs in the office of a candidate for the office of Delegate, Mayor, or member of the Council who has been declared the winner in the preceding primary election of such office, the vacancy may be filed not later than fifteen days prior to the next general election for such office, by nomination by the party committee of the party which nominated his predecessor. In the event that such a vacancy occurs in the office of Delegate more than eight months before the expiration of its term of office, the Board shall call special elections to fill such vacancy for the remainder of its term of office."

(9) The first sentence of section 15 of such Act (D.C. Code, sec. 1-1115) is amended to read as follows: "No person shall be a candidate for more than one office on Board of Education or the Council in any election for members of the Board of Education or Council, and no person shall be a candidate for more than one office on the Council in any primary election."

(10) Section 15 of such Act (D.C. Code, sec. 1-1115) is further amended (1) by designating the existing text of such section as subsection (a), and (2) by adding at the end thereof the following new subsection:

"(b) No person who is holding the office of Mayor, Delegate, Chairman or member of the Council or member of the School Board shall, while holding such office, be eligible as a candidate for any other of such offices in any primary or general election, unless the term of the office

which he so holds expires on or prior to the date on which he would be eligible, if elected in such primary or general election, to take the office with respect to which such election is held."

DISTRICT COUNCIL AUTHORITY OVER ELECTIONS

SEC. 752. Notwithstanding any other provision of this Act or of any other law, the Council shall have authority to enact any act or resolution with respect to matters involving or relating to elections in the District.

PART F—RULES OF CONSTRUCTION

CONSTRUCTION

SEC. 761. To the extent that any provisions of this Act are inconsistent with the provisions of any other laws the provisions of this Act shall prevail and shall be deemed to supersede the provisions of such laws.

PART G—EFFECTIVE DATES

EFFECTIVE DATES

SEC. 771. (a) Titles I and V, and parts A and G, and section 722 of title VII shall take effect on the date of enactment of this Act.

(b) Sections 712, 713, 714, and 715 of title VII, and section 401(b) of title IV, and title II shall take effect July 1, 1974, except that any provision thereof which in effect transfers authority to appoint any citizen member of this National Capital Planning Commission or the District of Columbia Redevelopment Land Agency shall take effect January 2, 1975.

(c) Titles III and IV, except section 401(b) of title IV, shall take effect January 2, 1975, if title IV is accepted by a majority of the registered qualified electors in the District of Columbia voting on the charter issue in the charter referendum.

(d) Title VI and parts D and F and sections 711, 716, 717, 718, 719, 721, and 723 of title VII shall take effect only if and upon the date that title IV becomes effective.

(e) Part E of title VII shall take effect on the date on which title IV is accepted by a majority of the registered qualified electors in the District of Columbia voting on the charter issue in the charter referendum. (Amended Apr. 17, 1974, Pub. L. 93-268, § 3(c), 68 Stat. 87; Aug. 29, 1974, Pub. L. 93-395, § 1(8), 88 Stat. 793.)

Approved December 24, 1973 (Pub. L. 93-198, 87 Stat. 774).

ADDITIONS AND REVISIONS TO PLAN SUBMITTED BY VIRGINIA FOR VIRGINIA PORTION OF NATIONAL CAPITAL INTERSTATE REGION, JULY 9, 1973 (EXCERPTS), RECORD IN NOS. 75-1050, 75-1055 AT PP. 4887-5306

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5. Dulles Access Road—Route 123—George Washington Parkway. (Fairfax and Arlington Counties—Reston and Vienna to Rosslyn)

Bus-only ramps to the Dulles Access Road for buses serving the Reston area are being provided at one interchange and will be opened in August, 1973.

NVTC's transit technical planning study (that is now underway) includes analysis of the Route 123-Lee Highway Corridor for the provision of bus priority movements. Preliminary results will be available in 1973, with final design to be performed in 1974, and implementation is scheduled for early 1975.

Measure 2: PROVIDE NEW AND EXPANDED BUS TRANSIT SERVICES. The enabling legislation creating NVTC, which represents the local governments in Northern Virginia in public transportation matters, authorizes it to contract for the provision of bus transit services. A Memorandum of Understanding (Reference 6) was executed between the Washington Metropolitan Area Transit Authority and NVTC (and other participating political subdivisions) on April 12, 1973, that provides for WMATA to operate such transit services as may be requested by NVTC, upon agreement that NVTC will pay the capital and operating costs of such services.

Work Plan

It is estimated that approximately *750 additional buses* * should be placed into service in the Washington Metropolitan area by May 31, 1975, to serve the transit travel demand that will result from the required decrease in use of the automobile for travel to and from work. Of these buses, it is estimated that about 300 will be needed for service in Northern Virginia. Placing this number of buses into service will require an extensive

* Vice 1300 buses proposed in Virginia's April 11, 1973 submission.

staff effort in the development and design of new routes and schedules as well as the provision of an additional garage and maintenance facility for the buses, in addition to the acquisition of new buses or retention of older buses (those in satisfactory condition but more than 14 years old) in service. See Table I. To assure meeting the 1975 bus requirements, it is proposed to retain all older buses in service beginning in 1974, rather than retire about 125 each year as originally planned in the WMATA Capital Grant Application to UMTA. This results in a net new bus requirement of about 200 buses by 1975 for the whole Metropolitan area, since bus service expansion plans, as outlined in the 5-year projection (Appendix G) contained in the Capital Grant Application, calls for the acquisition of about 150 new buses each year for the next several years. The estimated cost of these additional buses is shown on Table I.

TRANSIT PASSENGER SERVICE IMPROVEMENTS

Several methods and procedures will be used to improve the convenience of transit services to existing users and new riders attracted through decreased use of the automobile. Bus rider shelters, expanded public information, and additional fringe parking will be provided by the individual local governments in Northern Virginia, by NVTC, the State of Virginia, and through WMATA, both as part of the WMATA regular bus service program and by NVTC utilizing the provisions of the Memorandum of Understanding to provide additional services. Reference G.

Adequate working relationships exist, and no additional legislation or cooperative agreements are needed at this time.

Work Plan

The capital equipment program of WMATA calls for the installation of 200 *bus rider shelters* each year for the next five years. Of these, approximately 60 will be installed each year in Northern Virginia. The Virginia Department of Highways has allocated funds to install over 20 bus rider shelters along Lee Highway in 1973,

and has plans to provide a similar number along Arlington Boulevard in 1974. It is anticipated that additional shelters will be provided by the Virginia Department of Highways in subsequent years. Arlington County, Alexandria, and NVTC have installed about 10 shelters over the past year. It is proposed that NVTC expand this program to provide for the installation of 40 additional bus rider shelters each year.

Providing additional *public information* on the existing, new, and expanded bus transit services will be provided through expanded staff effort and increased funding for the development and distribution of information pamphlets and timetables on new routes, schedules, and locations to be served by the expanded public transportation. See Table I.

Expanded *fringe parking* will be initiated at shopping centers, churches, along service roads, and at other appropriate locations. The transit planning technical study now underway by NVTC is investigating locations along two broad corridors in Northern Virginia, and specific recommendations for new fringe parking sites will be available in 1973. Final arrangements for utilization of additional fringe parking sites will be completed and areas will be placed into service in 1974. Staff effort will be continued to locate and utilize additional sites in subsequent years. Estimated costs for additional guide signing, pavement marking, etc., are shown in Table I.

The NVTC transit planning technical study is investigating the feasibility of *dial-a-ride transit services* to augment and supplement regular-route bus transit services in three separate areas of Northern Virginia. Based on the results of this study, which is scheduled to be completed in 1973, appropriate dial-a-ride services will be implemented where recommended. Provision of these new services beginning in 1975, is anticipated. Estimated costs to place 15 new small-size buses in service are provided.

Stabilization of fares is one of the programs supported by NVTC to maintain and increase patronage of bus services. *Subsidies* to support a lowering and equalization of transit fares throughout Northern Virginia have re-

cently been approved by NVTC, and all the local governments in the Northern Virginia Transportation District have allocated funds to finance this program during FY 1974. Funds to support transit operating cost subsidies in subsequent years are expected to be made available from existing and new tax sources when needed. It is proposed that NVTC hold bus fares stable for two years, by utilization of public funding subsidies, and then have transit fares increase based on the consumer price index and the relative cost of travel by transit versus the automobile. NVTC is currently developing a position on which source of taxation is most appropriate as a source of revenue to support transit services, and *plans to request legislation authorizing such taxation at the 1974 Session of the Virginia General Assembly.* Additional legislation at the State and local government levels is required. The estimated operating deficit $3,000,000 per year anticipated to result from placing 300 additional buses in service to meet the air pollution reduction requirements is shown on Table I.

Measure 4—Increased Terminal Costs

The basic air pollution reduction strategy in the Washington Metropolitan area, and particularly in the Northern Virginia portion of the region, is to provide for travel during the peak periods by public transportation rather than to continue the predominant reliance upon the automobile. New and expanded bus services are the principal means proposed for accommodating the anticipated switch from travel by automobile. That is, considerably expanded and more convenient transit services will provide an *incentive* to increased utilization of public transportation and decreased utilization of the automobile.

However, an integral and inseparable part of increased utilization of public transportation is the initiation of *disincentives* to the continued predominate reliance upon the automobile for travel, especially during peak travel periods. Probably the most critical disincentive to continued usage of the automobile for work trips is the provision of increased parking costs and a decrease in

the supply of parking spaces in areas of high employment concentration. In other words, initiation of increased parking costs cannot be separated from the provision of expanded bus services if utilization of the new bus services is to increase to the point of reducing the air pollution resulting from current reliance upon the automobile to the levels necessary to meet the air quality standards for the Washington Metropolitan area.

LEGAL AUTHORITY

1. $3 million per year operating subsidies to be paid by NVTC member jurisdictions require taxation authority which will be requested from the 1974 General Assembly which meets on January 9, 1974. Prior to that date, NVTC, SAPCB, Secretary of Transportation, and Northern Virginia delegation members will consult and develop specific plans for dealing with cognizant legislative committees. No more precise "time table" or "milestones" can be stated. It is expected that requisite legal authority will be signed into law by May 31, 1974.

2. Legal authority to eliminate and enforce continued elimination of free parking is "not applicable". There are many ways public and private employers could circumvent this measure. It is not absolutely enforceable and depends largely on Federal (EPA/OMB) action to get it started and upon NVTC and community action to keep it going. A continuing hassel over free parking for senior military and government officials is anticipated.

3. Authority for Arlington Co. to impose the $2.00 parking surcharge will be requested from the 1974 General Assembly in the same manner as Item 1 above.

4. Legal authority and enforcement of the car pool locator service is "not applicable". This is a cooperative encouragement program and an administrative action. No laws are contemplated to require citizens to car pool, but with the provision of exclusive car/pool/bus priority lanes, the projected VMT reduction due to car pooling is a credible strategy.

RESOURCES:

As shown in Table IV, this plan requires in 1974 a $10 million grant from UMTA matched by $5 million in State funds. There is no way air pollution control authorities can prove to EPA that these funds will be allocated. It is clear, however, from recent public announcements that VDH is prepared to support mass transit improvements in Northern Virginia. Whether at this level or not depends on matters beyond the scope of this plan.

PROPOSED RULES AND REGULATIONS

Rules and Regulations for Bus Priority Lanes and Parking Restrictions are "not applicable". Regulation is achieved by posting signs. Violation of any posted traffic sign in Northern Virginia is a traffic offense under local ordinances.

TECHNICAL FEASIBILITY

Since the number of additional buses has been dropped from 1300 to 750, technical feasibility of procurement and expansion of labor and service facilities is no longer at issue.

ENFORCEMENT

In the event Arlington County refuses to enforce parking restrictions and the $2.00 surcharge, it is anticipated that Federal promulgation would be required to meet requirements of this plan and ensure uniformity with similar measures in the District of Columbia.

Through NVTC and the membership of local Virginia jurisdictions in the Metropolitan Washington Council of Government, reciprocal parking fine

* * * *

Measure 6—LDV Inspection-Maintenance

DISCUSSION: Emission surveillance studies recently performed for EPA show that controlled light duty vehicles ('68-71) are emitting pollutants at levels significantly higher than the standards for which they were factory-equipped. For example, tests of a fleet of '71 vehicles, stabilized, excluding Denver, showed 41% in excess of the model year HC standard and 51% in excess of the model year CO standard. 62% failed one or the other standard. As the Federal new car certification standards become more and more stringent, there is greater need than ever to adopt measures that will require car owners to maintain their emission control systems at or somewhere approaching designed performance levels. This is the purpose of LDV inspection-maintenance. Since Virginia has an existing Safety Inspection System, operating under the State Police with 3000 Statewide licensed stations, it is deamed most feasible to adopt and tie into it an ann[illegible] idle emission inspection test.

GOAL: Ensure that light duty vehicles comply with Federal emission standards.

EMISSIONS REDUCTION POTENTIAL AND MODEL INPUT: Regional model inputs were 90% of the effects shown App. N (38FR15197) on exhaust emissions only based on Virginia Idle Test at 30% rejection; D.C. and Maryland Loaded Test at 30% rejected. Emissions reduction: 1.2 tons HC in '77 and 28.1 tons CO in '77.

PROJECTED IMPACT ON AIR QUALITY: The above emissions reductions represent 9% of the required HC reduction and 40% of the required CO reduction to enable national standards to be attained in the NCI region in 1977.

TIME TO IMPLEMENT: Given approval and funding by the General Assembly during its next session commencing January 9, 1974, initiation of the system could be completed by July 1974 and the system could be fully functioning by January 1975. Cars with semi-annual safety stickers expiring in December 1974 would receive their first emissions test in June 1975, thus com-

pleting the first cycle by that date. Effectiveness of the strategy, however, depends upon the ability of the service industry to respond by training mechanics and technicians to perform the indicated maintenance actions. This effort will probably take two years or more to reach full effectiveness.

LOCATIONS AFFECTED: AQCR VII initially, extended to other regions of Virginia later.

TECHNICAL FEASIBILITY: NDIR exhaust gas analyzers at about $2000 each are available in quantity on the open market. No other equipment is needed. They are required by both the test and the maintenance facility, however.

INSTITUTIONAL FEASIBILITY: The greatest impediment is funding. If the State or Federal government were to finance a large share of the cost of each analyzer, the present safety inspection licensees would be more inclined to go along with the program. A direct outlay of $2000 may cause many of them to drop out. Surveys of the service industry in AQCR VII indicate that that industry is already heavily taxed with work and unable to expand its work force. Significant State funds will be required for training teams, equipment calibration teams, and program management. Federal grant funds under Section 210 of the Clean Air Act are authorized for up to two thirds of the cost of constructing and operating the system.

IMPLEMENTING AGENCY: The program will be set up by a Task Force made up of representatives from SAPCB, the State Police, and possibly a contractor. Continuing action will be the responsibility of the State Police, assisted by SAPCB in connection with adjustment of test standards and by DMV for statistical analysis.

LEGAL AUTHORITY: The 1974 General Assembly will be requested to amend the Motor Vehicle Code, Title 46.1 to establish requirements and define responsibilities. SAPCB will initiate this action.

ACTION REQUIRED: Passage of enabling legislation. Appropriation and release of funds. Establishing program Task Force. Training personnel. Initiating studies.

ENFORCEMENT: State and local police will enforce a sticker system in the same manner they now enforce safety inspection.

RELATIONSHIP TO OTHER STRATEGIES:

- Vehicle Turnover
- LDV Retrofit

EXPECTED COSTS TO IMPLEMENT:

DIRECT COSTS: Program start-up costs for one year will be about $670,000. For AQCR VII only, capital costs will be about $552,000 and annual costs to the State will be about $348,000. Safety inspection fees now $3.00 will be $6.00 for both safety and emissions test.

INDIRECT COSTS: Based on information developed by Carlson et al (Effectiveness of Short Emission Inspection Tests—APCA Paper #73-80, June 24, 1973) it is expected that idle test maintenance costs will be about $25.00 per serviced vehicle at 30% rejection rate.

STUDIES REQUIRED: EPA may establish the vehicle emission baseline upon which pre '72 vehicles will be tested. See EPA Region III letter of June 1, 1973 for plans in this connection. If this information is not developed prior to accumulation of data in Virginia AQCR VII starting in January 1975, the system effectiveness and citizen support will be adversely affected. Car owners must be convinced the rejections and out-of-pocket emission repairs are justifiable and based on sound data.

IMPLEMENTATION SCHEDULE:

Enabling legislation and funding—March 1974
Start-up State/County stations—July 1974
Start-up in whole region—January 1975
Complete first cycle—June 1975

SCOPE AND NATURE OF REQUIRED REGULATIONS: Section 4.710.00 of AQCR VII Regulations will be revised to include the initial test standards for each model year LDV. The Motor Vehicle Code (Section 46.1) will be revised by the General Assembly to establish time limits for repairs, fines, and procedures to safeguard car owners from unnecessary maintenance generated by mandatory emission testing.

TABLE I

ESTIMATED COSTS TO IMPLEMENT
IMPROVED PUBLIC TRANSPORTATION ELEMENTS

YEAR	MANPOWER NEEDS			ESTIMATED COSTS					
	Bus Lanes	More Buses	Passenger Services	Bus Lanes	More Buses	Passenger Services	Federal	State-Local	Total
1973	1	2	2	$ 12,500	$ 25,000	$ 25,000	$ 40,000	$ 22,500	$ 62,500
1974	1	5	3	1,025,000	15,100,000	340,000	10,725,000	5,740,000	16,465,000
1975	½	5	3½	310,000	500,000*	460,000	690,000	580,000	1,270,000
1976	½	3	3½	10,000	75,000*	460,000	225,000	320,000	545,000
1977	—	3	3	—	80,000*	460,000	220,000	320,000	540,000
Totals				$1,357,500	$15,780,000	$1,745,000	$11,900,000	$6,982,500	$18,882,500
									9,000,000
									$27,882,500

* Estimated deficit resulting from operation of 300 additional buses is about $3,000,000 per year beginning in 1975. (Requires enabling legislation from 1974 Gen. Assembly to enable local jurisdiction to acquire this sum by taxation)

PUBLIC HEARINGS ON TRANSPORTATION CONTROL PLANS FOR THE NATIONAL CAPITAL AREA, SEPTEMBER 6, 1973 (EXCERPTS), RECORD DOC. NO. 20 IN NOS. 75-1055 AT PP. 826-842

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[826] STATEMENT OF CLEATUS BARNETT, ACTING CHAIRMAN OF THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY, ACCOMPANIED BY MATTHEW PLATT OF THE OFFICE OF PLANNING OF THE AUTHORITY.

MR. BARNETT: Thank you, Mr. Chairman.

I am Cleatur [sic] Barnett, Acting Chairman of the Washington Metropolitan Area Transit Authority. Accompanying me is Mr. Matthew Platt of the Office of Planning of the Authority.

The Washington Metropolitan Area Transit Authority is the operator and owner of the regional bus transit system and is building and will operate Metro, the future rail transit system in the Washington area of Washington, D.C.

We are pleased to appear today to pledge our cooperation and to endorse the broad regional effort to achieve a high quality of clean air throughout the area. [827] WMATA is committed to improve public transportation service in this region. By doing so, we believe we will contribute significantly to the control of air pollution.

We have ordered 620 new buses and plan to order an additional 650 over the next four years. These buses will be equipped with an Environmental Improvement Program (EIP) kit which will exceed the standards of the Federal Government and meet those of the State of California (which are even more rigid) with regard to emission of smoke, hydrocarbons, carbon monoxide and oxides of nitrogen.

The reduction of these emissions over the last few years has been largely due to the improvement of fuel injectors. Our new buses will be equipped with the C-55 fuel injector, only recently introduced and capable of providing further improvements in emission control. We also plan to equip our present buses with the new fuel injector.

You will be interested to know, I am sure, that our personnel are quite familiar with the experiments which led to these improved emission controls since the majority of the experiments were conducted on buses of D. C. Transit under a research project sponsored by the Washington Metropolitan Area Transit Commission and the Urban Mass Transportation Administration.

We are also surveying the existing bus properties to determine any other possible means of reducing air

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[829] acquire real estate and to design and build storage and maintenance facilities for the 750 additional buses proposed in the report.

Our experience with regard to such facilities for either rail or bus vehicles leads us to conclude that this will be an extremely slow and controversial process. The procurement of 750 additional buses will be a major undertaking requiring time.

The preparation of schedules to integrate those buses into the operative pattern will require almost a year's effort. Additional buses will require additional personnel, including operators and those who provide maintenance and administrative support. A training period for such personnel must be allowed.

There are strict procedures for the adoption of new or changed bus service or the deletion of such service. Those procedures require public hearings with due notice before such hearings and adequate time thereafter for additional comments and analyses. This, as is well known, is a time-consuming process.

Finally, we should like to direct some comments to the financial problems inherent in the recommendations. As shown in technical materials recently furnished us, it is estimated that the transit capital requirements would be $42.5 million, and the annual operating deficit $15.9 million

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[834] would be what?

MR. PLATT: The program called for increasing 25 buses for the second year and also 25 for the third year.

MR. FERRARI: It looks like we have had a break between your organization and the Transportation Board and our group as to exactly the number of buses to be purchased.

MR. PLATT: The 750 are over and above these increases. That is my understanding.

MR. FERRARI: Is this agreed upon by WMATA, to purchase these 750 buses?

MR. BARNETT: No, sir, the WMATA has not agreed to the 750 buses. It is agreeable to undertaking that assignment, but I don't think the board has the authority to itself undertake the program without the signatories to the Authority's compact approving the program and financially underwriting it, and it is a process we have had to go through before we reach the point where we can begin acquiring buses.

We are quite amenable to undertaking the assignment. In fact, we think it ought to be done. But as the Metro Board itself, we cannot just say we are going to do it and proceed to do it.

MR. FERRARI: I see. Thank you.

MR. MILNER: Mr. Shutler, if I may on the quantity of buses.

[835] Assuming that the Board okay's the 750 additional bus concept which you are indicating a favorable reaction to, and even assuming you don't keep some of those older ones that you had originally planned to retire, I come up with 120 plus 25 plus 25 for 1760 new buses.

Is it fair to assume that that 170 could be included in that 750 so that you are really talking about 750 less 170 really new buses that you hadn't originally planned for?

MR. BARNETT: I think we are going to get the 170 you refer to regardless of what happens. That is already programmed.

The 750 that the committee has made reference to is a new program and has not been endorsed by the proper authorities around the area.

MR. MILNER: All I am asking is if it were endorsed then one could conceive that it would be 750 less 170?

MR. BARNETT: I think the proper arithmetic would be 750 plus what we are already programming.

MR. MILNER: I see.

This ought to be clarified in my mind later in order to discuss it.

The other point I really want to make quickly was the routes, and in our critique, the original COG plan, we did ask for clear identification of the routes including [836] suburban location "A" to suburban location "B."

That is all I have.

MR. KOZLOWSKI: Mr. Barnett, can you tell me how many buses you have in your fleet now?

MR. BARNETT: 1800.

MR. KOZLOWSKI: 1800?

MR. BARNETT: Yes.

MR. KOZLOWSKI: How many would you have in 1975? All 1800 are operable? Plus 175?

MR. BARNETT: That is a question I can't answer off the top of my head without doing some computation. We have a retirement program and a—

MR. PLATT: The arithmetic I have is that we would have approximately 1970 buses operating. This does not take into account the possibility of not retiring some of those buses.

Now, we still are thinking of keeping some 130 of the better buses.

Now, of the 508 we were going to retire this year, approximately 130 are air conditioned of the newer type. We are thinking of keeping those.

We do also have a problem with storage. We can't immediately increase the fleet without providing additional storage. As Mr. Barnett indicated, that is a problem.

MR. KOZLOWSKI: Is it possible with the condition [837] the buses are in to not retire significantly more than the one hundred and so you are talking about? For example, 600?

MR. PLATT: Our present indication is that these buses should be retired.

MR. KOZLOWSKI: Let me ask a slightly related question, then.

If there is an increase in ridership in the peak periods of evening rush hours of, let's say, 10 to 15 percent, could you handle it with the current number of buses?

MR. PLATT: With the programmed increase, yes.

MR. KOZLOWSKI: So you would conclude, then—I want to get this straight—that you could handle a 15 percent reduction of traffic with your current fleet and your current projected increase in fleet?

MR. PLATT: That is approximately the figure.

MR. KOZLOWSKI: I would like to ask just for my own, I know with three jurisdictions the funding is probably complicated, but just how do you get funds for the buses?

MR. PLATT: The funds for our buses come from the UMTA program plus the local matching moneys. The present capital program of—for example, the 600 buses we are now acquiring, we were able to get two-thirds UMTA funding for those buses, one-third from the local jurisdictions. The local money was allocated among each of our local governments.

[838] We have in effect eight local governments. The two counties in Maryland, the District of Columbia, and five jurisdictions—two counties and three cities in Virginia are included in that, for a total of eight jurisdictions. Their share of the program was allocated among these jurisdictions and they have provided the money for this.

MR. KOZLOWSKI: How long does the funding process take? Let's assume, say, you decide you want 750 new buses. How long would it be before you could actually start buying these?

MR. BARNETT: Just as an estimate, I think it would probably take two to three months to go through the process of getting local approval—that is, all the participating local governments.

The federal government, you would be able to answer that better than I. Sometimes it moves along and other times they get lost in those applications.

DR. SHUTLER: What do you need from the federal government in this respect?

MR. BARNETT: We would need the feds to provide the two-thirds federal share that we have become accustomed to.

DR. SHUTLER: I see.

MR. BARNETT: I think it has been raised to 80 recently.

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[840] DR. SHUTLER: The bus purchases and retires through 1977, both planned and deemed possible, and by that the difference between those last two may include the difference between retirements.

MR. BARNETT: Part of that schedule is a little bit flabby, to be honest with you. The only thing firm about it is the new buses that are ordered. That is a firm program that is moving ahead.

How many of these old buses might be retained beyond their projected retirement date is a little soft, but we will try to get you as hard a figure as possible on that and submit it for the record.

DR. SHUTLER: Very good.

There is also some uncertainty as to just what the local jurisdictions, your signatories, have to do before you can get the approval. You said it would take two to three months to obtain it. Can you describe that, or would you prefer to submit something in writing for the record? Either way.

MR. BARNETT: I will try to describe it and supplement it with a statement for the record, if you would like.

A program has to originate somewhere, and a logical place for a program of this type to originate would be with the Metro as a focus for the bus operations. We would [841] prepare a program that we see as feasible and submit it to the jurisdictions for their financial—for their endorsement of the program and their financial support to follow.

If we get agreement all the way around the Beltway the program would go to the federal government for the

UMTA participation, and if that comes through we are ready to roll and we are ready then to prepare a program for bids for the manufacturer of the buses, for the operation of the buses after we get them.

DR. SHUTLER: Which organizations in the local jurisdictions do you have to obtain approval from? The board of county supervisors or the equivalent or what?

MR. BARNETT: In the District of Columbia it is primarily, I think—I am not an authority on the District organization's government—I think it is the D. C. City Council that deals with these matters.

In Maryland, it would be each of the two counties acting individually, Montgomery County and Prince George's County.

Over in Virginia it is the Northern Virginia Transportation Commission acting in the name of the five signatories over there. I think they further have a subprocess where they go to their five participating jurisdictions, but in the end they speak for all of them.

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WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY COMPACT

PUBLIC LAW 89-774; 80 STAT. 1324

[S. 3488]

An Act to grant the consent of Congress for the States of Virginia and Maryland and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact to establish an organization empowered to provide transit facilities in the National Capital Region and for other purposes and to enact said amendment for the District of Columbia.

WHEREAS Congress heretofore has declared in the National Capital Transportation Act of 1960 (Public Law 86-669, 74 Stat. 537) and in the National Capital Transportation Act of 1965 (Public Law 89-173, 79 Stat. 663) that a coordinated system of rail rapid transit, bus transportation service, and highways is essential in the National Capital Region for the satisfactory movement of people and goods, the alleviation of present and future traffic congestion, the economic welfare and vitality of all parts of the Region, the effective performance of the functions of the United States Government located within the Region, the orderly growth and development of the Region, the comfort and convenience of the residents and visitors to the Region, and the preservation of the beauty and dignity of the Nation's Capital and that such a system should be developed cooperatively by the Federal, State, and local governments of the National Capital Region, with the costs of the necessary facilities financed, as far as possible, by persons using or benefiting from such facilities and the remaining costs shared equitably among the Federal, State, and local governments;

WHEREAS in furtherance of this policy, Congress, in title III of the National Capital Transportation Act

of 1960, authorized the District of Columbia, the Commonwealth of Virginia, and the State of Maryland to negotiate a Compact for the establishment of an organization, empowered, inter alia, to provide regional transportation facilities;

WHEREAS, it is the sense of the Congress that the Mass Transit Plan authorized by the Compact and this Act shall conform to the fullest extent practicable with the Comprehensive Plan for the National Capital and the general plan for the development of the National Capital Region prepared pursuant to the National Capital Planning Act of 1952 (Public Law 82-592, 66 Stat. 781); and

WHEREAS, the District of Columbia, the Commonwealth of Virginia and the State of Maryland, with a representative of the United States appointed by the President, have negotiated such a Compact, known as the Washington Metropolitan Area Transit Authority Compact, which amends the Washington Metropolitan Area Transit Regulation Compact, heretofore consented to by the Congress (Public Law 86-794, 74 Stat. 1031, as amended by Public Law 87-767, 76 Stat. 764), by adding thereto a title III and said Compact has been enacted by Maryland (Ch. 869, Acts of General Assembly 1965) and in substantially the same language by Virginia (Ch. 2, 1966 Acts of Assembly): Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The Congress hereby consents to, adopts and enacts for the District of Columbia an amendment to the Washington Metropolitan Area Transit Regulation Compact, for which Congress heretofore has granted its consent (Public Law 86-794, 74 Stat. 1031, as amended by Public Law 87-767, 76 Stat. 764) by adding thereto title III, known as the Washington Metropolitan Area Transit Authority Compact, herein referred to as title III), substantially as follows:

"TITLE III

"ARTICLE I

"DEFINITIONS

"1. As used in this Title, the following words and terms shall have the following meanings, unless the context clearly requires a different meaning:

"(a) 'Board' means the Board of Directors of the Washington Metropolitan Area Transit Authority;

"(b) 'Director' means a member of the Board of Directors of the Washington Metropolitan Area Transit Authority;

"(c) 'Private transit companies' and 'private carriers' means corporations, person, firms or associations rendering transit service within the Zone pursuant to a certificate of public convenience and necessity issued by the Washington Metropolitan Area Transit Commission or by a franchise granted by the United States or any signatory party to this Title;

"(d) 'Signatory' means the State of Maryland, the Commonwealth of Virginia and the District of Columbia;

"(e) 'State' includes District of Columbia;

"(f) 'Transit facilities' means all real and personal property located in the Zone, necessary or useful in rendering transit service between points within the Zone, by means of rail, bus, water or air and any other mode of travel, including without limitation, tracks, rights of way, bridges, tunnels, subways, rolling stock for rail, motor vehicle, marine and air transportation, stations, terminals and ports, areas for parking and all equipment, fixtures, buildings and structures and services incidental to or required in connection with the performance of transit service;

"(g) 'Transit services' means the transportation of persons and their packages and baggage by means of transit facilities between points within the Zone and includes the transportation of newspapers, express and

mail between such points but does not include taxicab, sightseeing or charter service; and

"(h) 'WMATC' means Washington Metropolitan Area Transit Commission.

"ARTICLE II

"PURPOSE AND FUNCTIONS

"PURPOSE

"2. The purpose of this Title is to create a regional instrumentality, as a common agency of each signatory party, empowered, in the manner hereinafter set forth, (1) to plan, develop, finance and cause to be operated improved transit facilities, in coordination with transportation and general development planning for the Zone, as part of a balanced regional system of transportation, utilizing to their best advantage the various modes of transportation, (2) to coordinate the operation of the public and privately owned or controlled transit facilities, to the fullest extent practicable, into a unified regional transit system without unnecessary duplicating service, and (3) to serve such other regional purposes and to perform such other regional functions as the signatories may authorize by appropriate legislation.

"ARTICLE III

"ORGANIZATION AND AREA

"WASHINGTON METROPOLITAN AREA TRANSIT ZONE

"3. There is hereby created the Washington Metropolitan Area Transit Zone which shall embrace the District of Columbia, the cities of Alexandria, Falls Church and Fairfax and the counties of Arlington and Fairfax and political subdivisions of the Commonwealth of Virginia located within those counties, and the counties of Montgomery and Prince George's in the State of Maryland and political subdivisions of the State of Maryland located in said counties.

"WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

"4. There is hereby created, as an instrumentality and agency of each of the signatory parties hereto, the Washington Metropolitan Area Transit Authority which shall be a body corporate and politic, and which shall have the powers and duties granted herein and such additional powers as may hereafter be conferred upon it pursuant to law.

"BOARD MEMBERSHIP

"5. (a) The Authority shall be governed by a Board of six Directors consisting of two Directors for each signatory. For Virginia, the Directors shall be appointed by the Northern Virginia Transportation Commission; for the District of Columbia, by the Commissioners of the District of Columbia; and for Maryland, by the Washington Suburban Transit Commission. In each instance the Director shall be appointed from among the members of the appointing body and shall serve for a term coincident with his term on the body by which he was appointed. A Director may be removed or suspended from office only as provided by the law of the signatory from which he was appointed. The appointing authorities shall also appoint an alternate for each Director, who may act only in the absence of the Director for whom he has been appointed an alternate, and each alternate shall serve at the pleasure of the appointing authority. In the event of a vacancy in the Office of Director or alternate, it shall be filled in the same manner as an original appointment.

"(b) Before entering upon the duties of his office each Director and alternate director shall take and subscribe to the following oath (or affirmation) of office or any such other oath or affirmation, if any, as the Constitution or laws of the signatory he represents shall provide:

"'I, ... , hereby solemnly swear (or affirm) that I will support and defend the Constiution of the United States and the Constitution and Laws of the state or political jurisdiction from which I was appointed

as a director (alternate director) of the Board of Washington Metropolitan Area Transit Authority and will faithfully discharge the duties of the office upon which I am about to enter.'

"COMPENSATION OF DIRECTORS AND ALTERNATES

"6. Members of the Board and alternates shall serve without compensation but may be reimbursed for necessary expenses incurred as an incident to the performance of their duties.

"ORGANIZATION AND PRFCEDURE

"7. The Board shall provide for its own organization and procedure. It shall organize annually by the election of a Chairman and Vice-Chairman from among its members. Meetings of the Board shall be held as frequently as the Board deems that the proper performance of its duties requires and the Board shall keep minutes of its meetings. The Board shall adopt rules and regulations governing its meeting, minutes and transactions.

QUORUM AND ACTIONS BY THE BOARD

"8. (a) Four Directors or alternates consisting of at least one Director or alternate appointed from each Signatory, shall constitute a quorum and no action by the Board shall be effective unless a majority of the Board, which majority shall include at least one Director or alternate from each Signatory, concur therein; provided, however, that a plan of financing may be adopted or a mass transit plan adopted, altered, revised or amended by the unanimous vote of the Directors representing any two Signatories.

"(b) The actions of the Board shall be expressed by motion or resolution. Actions dealing solely with internal management of the Authority shall become effective when directed by the Board, but no other action shall become effective prior to the expiration of thirty days following its adoption; provided, however, that the Board may provide for the acceleration of any action upon a finding

that such acceleration is required for the proper and timely performance of its functions.

"OFFICERS

"9. (a) The officers of the Authority, none of whom shall be members of the Board, shall consist of a general manager, a secretary, a treasurer, a comptroller and a general counsel and such other officers as the Board may provide. Except for the office of general manager and comptroller, the Board may consolidate any of such other offices in one person. All such officers shall be appointed and may be removed by the Board, shall serve at the pleasure of the Board and shall perform such duties and functions as the Board shall specify. The Board shall fix and determine the compensation to be paid to all officers and, except for the general manager who shall be a full-time employee, all other officers may be hired on a full-time or part-time basis and may be compensated on a salary or fee basis, as the Board may determine. All employees and such officers as the Board may designate shall be appointed and removed by the general manager under such rules of procedure and standards as the Board may determine.

"(b) The general manager shall be the chief administrative officer of the Authority and, subject to policy direction by the Board, shall be responsible for all activities of the Authority.

"(c) The treasurer shall be the custodian of the funds of the Authority, shall keep an account of all receipts and disbursements and shall make payments only upon warrants duly and regularly signed by the Chairman or Vice-Chairman of the Board, or other person authorized by the Board to do so, and by the secretary or general manager; provided, however, that the Board may provide that warrants not exceeding such amounts or for such purposes as may from time to time be specified by the Board may be signed by the general manager or by persons designated by him.

"(d) An oath of office in the form set out in Section 5(b) of this Article shall be taken, subscribed and filed with the Board by all appointed officers.

"(e) Each Director, officer and employees specified by the Board shall give such bond in such form and amount as the Board may require, the premium for which shall be paid by the Authority.

"CONFLICT OF INTERESTS

"10. (a) No Director, officer or employee shall:

"(1) be financially interested, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the Board or the Authority is a party;

"(2) in connection with services performed within the scope of his official duties, solicit or accept money or any other thing of value in addition to the compensation or expenses paid to him by the Authority;

"(3) offer money or any thing of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the Authority.

"(b) Any Director, officer or employee who shall willfully violate any provision of this section shall, in the discretion of the Board, forfeit his office or employment.

"(c) Any contract or agreement made in contravention of this section may be declared void by the Board.

"(d) Nothing in this section shall be construed to abrogate or limit the applicability of any federal or state law which may be violated by any action prescribed by this section.

"ARTICLE IV

"PLEDGE OF COOPERATION

"11. Each Signatory pledges to each other faithful cooperation in the achievement of the purposes and objects of this Title.

"ARTICLE V

"GENERAL POWERS

"ENUMERATION

"12. In addition to the powers and duties elsewhere described in this Title, and except as limited in this Title, the Authority may:

"(a) Sue and be sued;

"(b) Adopt and use a corporate seal and alter the same at pleasure;

"(c) Adopt, amend, and repeal rules and regulations respecting the exercise of the powers conferred by this Title;

"(d) Construct, acquire, own, operate, maintain, control, sell and convey real and personal property and any interest therein by contract, purchase, condemnation, lease, license, mortgage or otherwise but all of said property shall be located in the Zone and shall be necessary or useful in rendering transit service or in activities incidental thereto;

"(e) Receive and accept such payments, appropriations, grants, gifts, loans, advances and other funds, properties and services as may be transferred or made available to it by any signatory party, any political subdivision or agency thereof, by the United States, or by any agency thereof, or by any other public or private corporation or individual, and enter into agreements to make reimbursement for all or any part thereof;

"(f) Enter into and perform contracts, leases and agreements with any person, firm or corporation or with any political subdivision or agency of any signatory party or with the federal government, or any agency thereof, including, but not limited to, contracts or agreements to furnish transit facilities and service;

"(g) Create and abolish offices, employments and positions (other than those specifically provided for herein) as it deems necessary for the purposes of the Authority, and fix and provide for the qualification, appointment,

removal, term, tenure, compensation, pension and retirement rights of its officers and employees without regard to the laws of any of the signatories;

"(h) Establish, in its discretion, a personal system based on merit and fitness and, subject to eligibility, participate in the pension and retirement plans of any signatory, or political subdivision or agency thereof, upon terms and conditions mutually acceptable;

"(i) Contract for or employ any professional services;

"(j) Control and regulate the use of facilities owned or controlled by the Authority, the service to be rendered and the fares and charges to be made therefor;

"(k) Hold public hearings and conduct investigations relating to any matter affecting transportation in the Zone with which the Authority is concerned and, in connection therewith, subpoena witnesses, papers, records and documents; or delegate such authority to any officer. Each director may administer oaths or affirmations in any proceeding or investigation;

"(*l*) Make or participate in studies of all phases and forms of transportation, including transportation vehicle research and development techniques and methods for determining traffic projections, demand motivations, and fiscal research and publicize and make available the results of such studies and other information relating to transportation; and

"(m) Exercise, subject to the limitations and restrictions herein imposed, all powers reasonably necessary or essential to the declared objects and purposes of this Title.

"ARTICLE VI

"PLANNING

"MASS TRANSIT PLAN

"13. (a) The Board shall develop and adopt, and may from time to time review and revise, a mass transit plan for the immediate and long-range needs of the Zone. The mass transit plan shall include one or more plans designating (1) the transit facilities to be provided by

the Authority, including the locations of terminals, stations, platforms, parking facilities and the character and nature thereof; (2) the design and location of such facilities; (3) whether such facilities are to be constructed or acquired by lease, purchase or condemnation; (4) a timetable for the provision of such facilities; (5) anticipated capital costs; (6) estimated operating expenses and revenues relating thereto; and (7) the various other factors and considerations, which, in the opinion of the Board, justify and require the projects therein proposed. Such plan shall specify the type of equipment to be utilized, the areas to be served, the routes and schedules of service expected to be provided and the probable fares and charges therefor.

"(b) In preparing the mass transit plan, and in any review of revision thereof, the Board shall make full utilization of all data, studies, reports and information available from the National Capital Transportation Agency and from any other agencies of the federal government, and from signatories and the political subdivisions thereof.

"PLANNING PROCESS

"14. (a) The mass transit plan, and any revisions, alterations or amendments thereof, shall be coordinated, through the procedures hereinafter set forth, with

"(1) other plans and programs affecting transportation in the Zone in order to achieve a balanced system of transportation, utilizing each mode to its best advantage;

"(2) the general plan or plans for the development of the Zone; and

"(3) the development plans of the various political subdivisions embraced within the Zone.

"(b) It shall be the duty and responsibility of each member of the Board to serve as liaison between the Board and the body which appointed him to the Board. To provide a framework for regional participation in the planning process, the Board shall create technical com-

mittees concerned with planning and collection and analyses of data relative to decision-making in the transportation planning process and the Commissioners of the District of Columbia, the component governments of the Northern Virginia Transportation District and the Washington Suburban Transit District shall appoint representatives to such technical committees and otherwise cooperate with the Board in the formulation of a mass transit plan, or in revisions, alterations or amendments thereof.

"(c) The Board, in the preparation, revision, alteration or amendment of a mass transit plan, shall

"(1) consider data with respect to current and prospective conditions in the Zone, including, without limitation, land use, population, economic factors affecting development plans, goals or objectives for the development of the Zone and the separate political subdivisions, transit demands to be generated by such development, travel patterns, existing and proposed transportation and transit facilities, impact of transit plans on the dislocation of families and businesses, preservation of the beauty and dignity of the Nation's Capital, factors affecting environmental amenities and aesthetics and financial resources;

"(2) cooperate with and participate in any continuous, comprehensive transportation planning process cooperatively established by the highway agencies of the signatories and the local political subdivisions in the Zone to meet the planning standards now or hereafter prescribed by the Federal-Aid Highway Acts; and

"(3) to the extent not inconsistent with or duplicative of the planning process specified in subparagraph (2) of this paragraph (c), cooperate with the National Capital Planning Commission, the National Capital Regional Planning Council, the Washington Metropolitan Council of Governments, the Washington Metropolitan Area Transit Commission, the highway agencies of the Signatories, the Maryland-National Capital Park and Planning Commission, the Northern Virginia Regional Planning, and Economic Development Commission, the Maryland State Planning Department and the Commission of Fine Arts. Such cooperation shall include the creation, as necessary, of technical committees composed of personnel, appointed by such agencies, concerned with planning and collection and analysis of data relative to decision making in the transportation planning process.

"ADOPTION OF MASS TRANSIT PLAN

"15. (a) Before a mass transit plan is adopted, altered, revised or amended, the Board shall transmit such proposed plan, alteration, revision or amendment for comment to the following and to such other agencies as the Board shall determine:

"(1) the Commissioners of the District of Columbia, the Northern Virginia Transportation Commission and the Washington Suburban Transit Commission;

"(2) the governing bodies of the Counties and Cities embraced within the Zone;

"(3) the highway agencies of the Signatories;

"(4) the Washington Metropolitan Area Transit Commission;

"(5) the Washington Metropolitan Council of Governments;

"(6) the National Capital Planning Commission;

"(7) the National Capital Regional Planning Council;

"(8) the Maryland-National Capital Park and Planning Commission;

"(9) the Northern Virginia Regional Planning and Economic Development Commission;

"(10) the Maryland State Planning Department; and

"(11) the private transit companies operating in the Zone and the Labor Unions representing the em-

ployees of s ch companies and employees of contractors prov ding service under operating contracts.

"Information with respect thereto shall be released to the public. A copy of the proposed mass transit plan, amendment or revision, shall be kept at the office of the Board and shall be available for public inspection. After thirty days' notice published a [sic] once a week for two successive weeks in one or more newspapers of general circulation within the Zone, a public hearing shall be held with respect to the proposed plan, alteration, revision or amendment. The thirty days' notice shall begin to run on the first day the notice appears in any such newspaper. The Board shall consider the evidence submitted and statements and comments made at such hearing and may make any changes in the proposed plan, amendment or revision which it deems appropriate and such changes may be made without further hearing.

"ARTICLE VII

"FINANCING

"POLICY

"16. With due regard for the policy of Congress for financing a mass transit plan for the Zone set forth in Section 204(g) of the National Capital Transportation Act of 1960 (74 Stat. 537), it is hereby declared to be the policy of this Title that, as far as possible, the payment of all costs shall be borne by the persons using or benefiting from the Authority's facilities and services and any remaining costs shall be equitably shared among the federal, District of Columbia and participating local governments in the Zone. The allocation among such governments of such remaining costs shall be determined by agreement among them and shall be provided in the manner hereinafter specified.

"PLAN OF FINANCING

"17. (a) The Authority, in conformance with said policy, shall prepare and adopt a plan for financing the construction, acquisition, and operation of facilities specified in a mass transit plan adopted pursuant to Article VI hereof, or in any alteration, revision or amendment thereof. Such plan of financing shall specify the facilities to be constructed or acquired, the cost thereof, the principal amount of revenue bonds, equipment trust certificates, and other evidences of debt proposed to be issued, the principal terms and provisions of all loans and underlying agreements and indentures, estimated operating expenses and revenues, and the proposed allocation among the federal, District of Columbia, and participating local governments of the remaining costs and deficits, if any, and such other information as the Commission may consider appropriate.

"(b) Such plan of financing shall constitute a proposal to the interested governments for financial participation and shall not impose any obligation on any government and such obligations shall be created only as provided in Section 18 of this Article VII.

"COMMITMENTS FOR FINANCIAL PARTICIPATION

"18. (a) Commitments on behalf of the portion of the Zone located in Virginia shall be by contract or agreement by the Authority with the Northern Virginia Transportation District, or its component governments, as authorized in the Transportation District Act of 1964 (Ch. 631, 1964 Acts of Virginia Assembly), to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or any alteration, revision or amendment thereof, and for meeting expenses and obligations in the operation of such facilities. No such contract or agreement, however, shall be entered into by the Authority with the Northern Virginia Transportation District unless said District has entered into

the contracts or agreements with its member governments, as contemplated by Section 1(b)(4) of Article 4 of said Act, which contracts or agreements expressly provide that such contracts or agreements shall inure to the benefit of the Authority and shall be enforceable by the Authority in accordance with the provisions of Section 2, Article 5 of the Act, and such contracts or agreements are acceptable to the Board. The General Assembly of Virginia hereby authorizes and designates the Authority as the agency to plan for and provide transit facilities and services for the area of Virginia encompassed within the Zone within the contemplation of Article 1, Section 3(c) of said Act.

"(b) Commitments on behalf of the portion of the Zone located in Maryland shall be by contract or agreement by the Authority with the Washington Suburban Transit District, pursuant to which the Authority undertakes to provide transit facilities and service in consideration for the agreement by said District to contribute to the capital required for the construction and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or amendment thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

"(c) With respect to the District of Columbia and the federal government, the commitment or obligation to render financial assistance shall be created by appropriation or in such other manner, or by such other legislation, as the Congress shall determine. If prior to making such commitment by or on behalf of the District of Columbia, legislation is enacted by the Congress granting the governing body of the District of Columbia plenary power to create obligations and levy taxes, the commitment by the District of Columbia shall be by contract or agreement between the governing body of the District of Columbia and the Authority, pursuant to which the Authority undertakes, subject to the provisions of Section 20 hereof, to provide transit facilities and service in consideration for the undertaking by the District of Columbia to contribute to the capital required for the construc-

tion and/or acquisition of facilities specified in a mass transit plan adopted as provided in Article VI, or in any alteration, revision or amendment thereof, and for meeting expenses and obligations incurred in the operation of such facilities.

"ADMINISTRATIVE EXPENSES

"19. Prior to the time the Authority has receipts from appropriations and contracts or agreements as provided in Section 18 of this Article VII, the expenses of the Authority for administration and for preparation of a mass transit and financing plan, including all engineering, financial, legal and other services required in connection therewith, shall, to the extent funds for such expenses are not provided through grants by the federal government, be borne by the District of Columbia, by the Washington Suburban Transit District and the component governments of the Northern Virginia Transportation District. Such expenses shall be allocated among such governments on the basis of population as reflected by the latest available population statistics of the Bureau of the Census; provided, however, that upon the request of any Director the Board shall make the allocation upon estimates of population acceptable to the Board. The allocations shall be made by the Board and shall be included in the annual current expense budget prepared by the Board.

"ACQUISITION OF FACILITIES FROM FEDERAL OR OTHER AGENCIES

"20. (a) The Authority is authorized to acquire by purchase, lease or grant or in any manner other than condemnation, from the federal government, or any agency thereof, from the District of Columbia, Maryland or Virginia, or any political subdivision or agency thereof, any transit and related facilities, including real and personal property and all other assets, located within the Zone, whether in operation or under construction. Such acquisition shall be made upon such terms and conditions

as may be agreed upon and subject to such authorization or approval by the Congress and the governing body of the District of Columbia, as may be required; provided, however, that if such acquisition imposes or may impose any further or additional obligation or liability upon the Washington Suburban Transit District, the Northern Virginia Transportation District, or any component government thereof, under any contract with the Authority, the Authority shall not make such acquisition until any such affected contract has been appropriately amended.

"(b) For such purpose, the Authority is authorized to assume all liabilities and contracts relating thereto, to assume responsibility as primary obligor, endorser or guarantor on any outstanding revenue bonds, equipment trust certificates or other form of indebtedness authorized in this Act issued by such predecessor agency or agencies and, in connection therewith, to become a party to, and assume the obligations of, any indenture or loan agreement underlying or issued in connection with any outstanding securities or debts.

"TEMPORARY BORROWING

"21. The Board may borrow, in anticipation of receipts, from any signatory, the Washington Suburban Transit District, the Northern Virginia Transportation District, or any component government thereof, or from any lending institution for any purposes of this Title, including administrative expenses. Such loans shall be for a term not to exceed two years and at a rate of interest not to exceed six percent per annum. The signatories and any such political subdivision or agency may, in its discretion, make such loans from any available money.

"FUNDING

"22. The Board shall not construct or acquire any of the transit facilities specified in a mass transit plan adopted pursuant to the provisions of Article VI of this Title, or in any alteration, revision or amendment thereof, nor make any commitments or incur any obligations with respect thereto until funds are available therefor.

"ARTICLE VIII

"BUDGET

"CAPITAL BUDGET

"23. The Board shall annually adopt a capital budget, including all capital projects it proposes to undertake or continue during the budget period, containing a statement of the estimated cost of each project and the method of financing thereof.

"CURRENT EXPENSE BUDGET

"24. The Board shall annually adopt a current expense budget for each fiscal year. Such budget shall include the Board's estimated expenditures for administration, operation, maintenance and repairs, debt service requirements and payments to be made into any funds required to be maintained. The total of such expenses shall be balanced by the Board's estimated revenues and receipts from all sources, excluding funds included in the capital budget or otherwise earmarked for other purposes.

"ADOPTION AND DISTRIBUTION OF BUDGETS

"25. (a) Following the adoption by the Board of annual capital and current expense budgets, the general manager shall transmit certified copies of such budgets to the principal budget officer of the federal government, the District of Columbia, the Washington Suburban Transit District and of the component governments of the Northern Virginia Transportation Commission at such time and in such manner as may be required under their respective budgetary procedures.

"(b) Each budget shall indicate the amounts, if any, required from the federal government, the Government

of the District of Columbia, the Washington Suburban Transit District, and the component governments of the Northern Virginia Transportation District, determined in accordance with the commitments made pursuant to Article VII, Section 18 of this Title, to balance each of said budgets.

"PAYMENTS

"26. Subject to such review and approval as may be required by their budgetary or other applicable processes, the federal government, the Government of the District of Columbia, the Washington Suburban Transit District and the component governments of the Northern Virginia Transportation District shall include in their respective budgets next to be adopted and appropriate or otherwise provide the amounts certified to each of them as set forth in the budgets.

"ARTICLE IX

"Revenue Bonds

"BORROWING POWER

"27. The Authority may borrow money for any of the purposes of this Title, may issue its negotiable bonds and other evidences of indebtedness in respect thereto and may mortgage or pledge its properties, revenues and contracts as security therefor.

"All such bonds and evidences of indebtedness shall be payable solely out of the properties and revenues of the Authority. The bonds and other obligations of the Authority, except as may be otherwise provided in the indenture under which they were issued, shall be direct and general obligations of the Authority and the full faith and credit of the Authority are hereby pledged for the prompt payment of the debt service thereon and for the fulfillment of all other undertakings of the Authority assumed by it to or for the benefit of the holders thereof.

"FUNDS AND EXPENSES

"28. The purposes of this Title shall include, without limitation, all costs of any project or facility or any part thereof, including interest during a period of construction and for a period not to exceed two years thereafter and any incidental expenses (legal, engineering, fiscal, financial, consultant and other expenses) connected with issuing and disposing of the bonds; all amounts required for the creation of an operating fund, construction fund, reserve fund, sinking fund, or other special fund; all other expenses connected with administration, the planning, design, acquisition, construction, completion, improvement or reconstruction of any facility or any part thereof; and reimbursement of advances by the Board or by others for such purposes and for working capital.

"CREDIT EXCLUDED; OFFICERS, STATE, POLITICAL SUBDIVISIONS AND AGENCIES

"29. The Board shall have no power to pledge the credit of any signatory party, political subdivision or agency thereof, or to impose any obligation for payment of the bonds upon any signatory party, political subdivision or agency thereof, but may pledge the contracts of such governments and agencies; provided, however, that the bonds may be underwritten in whole or in part as to principal and interest by the United States, or by any political subdivision or agency of any signatory; provided, further, that any bonds underwritten in whole or in part as to principal and interest by the United States shall not be issued without approval of the Secretary of the Treasury. Neither the Directors nor any person executing the bonds shall be liable personally on the bonds of the Authority or be subject to any personal liability or accountability by reason of the issuance thereof.

"FUNDING AND REFUNDING

"30. Whenever the Board deems it expedient, it may fund and refund the bonds and other obligations of the

Authority whether or not such bonds and obligations have matured. It may provide for the issuance, sale or exchange of refunding bonds for the purpose of redeeming or retiring any bonds (including the payment of any premium, duplicate interest or cash adjustment required in connection therewith) issued by the Authority or issued by any other issuing body, the proceeds of the sale of which have been applied to any facility acquired by the Authority or which are payable out of the revenues of any facility acquired by the Authority. Bonds may be issued partly to refund bonds and other obligations then outstanding, and partly for any other purpose of the Authority. All provisions of this Title applicable to the issuance of bonds are applicable to refunding bonds and to the issuance, sale or exchange thereof.

"BONDS; AUTHORIZATION GENERALLY

"31. Bonds and other indebtedness of the Authority shall be authorized by resolution of the Board. The validity of the authorization and issuance of any bonds by the Authority shall not be dependent upon nor affected in any way by: (i) the disposition of bond proceeds by the Board or by contract, commitment or action taken with respect to such proceeds; or (ii) the failure to complete any part of the project for which bonds are authorized to be issued. The Authority may issue bonds in one or more series and may provide for one or more consolidated bond issues, in such principal amounts and with such terms and provisions as the Board may deem necessary. The bonds may be secured by a pledge of all or any part of the property, revenues and franchises under its control. Bonds may be issued by the Authority in such amount, with such maturities and in such denominations and form or forms, whether coupon or registered, as to principal alone or as to both principal and interest, as may be determined by the Board. The Board may provide for redemption of bonds prior to maturity on such notice and at such time or times and with such redemption provisions, including premiums, as the Board may determine.

"BONDS; RESOLUTIONS AND INDENTURES GENERALLY

"32. The Board may determine and enter into indentures or adopt resolutions providing for the principal amount, date or dates, maturities, interest rate, or rates, denominations, form, registration, transfer, interchange and other provisions of the bonds and coupons and the terms and conditions upon which the same shall be executed, issued, secured, sold, paid, redeemed, funded and refunded. The resolution of the Board authorizing any bond or any indenture so authorized under which the bonds are issued may include all such covenants and other provisions not inconsistent with the provisions of this Title, other than any restriction on the regulatory powers vested in the Board by this Title, as the Board may deem necessary or desirable for the issue, payment, security, protection or marketing of the bonds, including without limitation covenants and other provisions as to the rates or amounts of fees, rents and other charges to be charged or made for use of the facilities; the use, pledge, custody, securing, application and disposition of such revenues, of the proceeds of the bonds, and of any other moneys or contracts of the Authority; the operation, maintenance, repair and reconstruction of the facilities and the amounts which may be expended therefor; the sale, lease or other disposition of the facilities; the insuring of the facilities and of the revenues derived therefrom; the construction or other acquisition of other facilities; the issuance of additional bonds or other indebtedness; the rights of the bondholders and of any trustee for the bondholders upon default by the Authority or otherwise; and the modification of the provisions of the indenture and of the bonds. Reference on the face of the bonds to such resolution or indenture by its date of adoption or the apparent date on the face thereof is sufficient to incorporate all of the provisions thereof and of this Title into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all of the

provisions of the indenture and of this Title and is bound thereby.

"MAXIMUM MATURITY

"33. No bond or its terms shall mature in more than fifty years from its own date and in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

"TAX EXEMPTION

"34. All bonds and all other evidences of debt issued by the Authority under the provisions of this Title and the interest thereon shall at all times be free and exempt from all taxation by or under authority of any signatory parties, except for transfer, inheritance and estate taxes.

"INTEREST

"35. Bonds shall bear interest at a rate of not to exceed six percent per annum, payable annually or semiannually.

"PLACE OF PAYMENT

"36. The Board may provide for the payment of the principal and interest of bonds at any place or places within or without the signatory states, and in any specified lawful coin or currency of the United States of America.

"EXECUTION

"37. The Board may provide for the execution and authentication of bonds by the manual, lithographed or printed facsimile signature of members of the Board, and by additional authentication by a trustee or fiscal agent appointed by the Board; provided, however, that one of such signatures shall be manual. If any of the

members whose signatures or countersignatures appear upon the bonds or coupons cease to be members before the delivery of the bonds or coupons, their signatures or countersignatures are nevertheless valid and of the same force and effect as if the members had remained in office until the delivery of the bonds and coupons.

"HOLDING OWN BONDS

"38. The Board shall have power out of any funds available therefor to purchase its bonds and may hold, cancel or resell such bonds.

"SALE

"39. The Board may fix terms and conditions for the sale or other disposition of any authorized issue of bonds. The Board may sell bonds at less than their par or face value but no issue of bonds may be sold at an aggregate price below the par or face value thereof if such sale would result in a net interest cost to the Authority calculated upon the entire issue so sold of more than six percent per annum payable semiannually, according to standard tables of bond values. All bonds issued and sold pursuant to this Title may be sold in such manner, either at public or private sale, as the Board shall determine.

"NEGOTIABILITY

"40. All bonds issued under the provisions of this Title are negotiable instruments.

"BONDS ELIGIBLE FOR INVESTMENT AND DEPOSIT

"41. Bonds issued under the provisions of this Title are hereby made securities in which all public officers and public agencies of the signatories and their political subdivisions and all banks, trust companies, savings and loan associations, investment companies and others carrying on a banking business, all insurance companies and in-

surance associations and others carrying on an insurance business, all administrators, executors, guardians, trustees and other fiduciaries, and all other persons may legally and properly invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any officer of any signatory, or of any agency or political subdivision of any signatory, for any purpose for which the deposit of bonds or other obligations of such signatory is now or may hereafter be authorized by law.

"VALIDATION PROCEEDINGS

"42. Prior to the issuance of any bonds, the Board may institute a special proceeding to determine the legality of proceedings to issue the bonds and their validity under the laws of any of the signatory parties. Such proceeding shall be instituted and prosecuted in rem and the final judgment rendered therein shall be conclusive against all persons whomsoever and against each of the signatory parties.

"RECORDING

"43. No indenture need be recorded or filed in any public office, other than the office of the Board. The pledge of revenues provided in any indenture shall take effect forthwith as provided therein and irrespective of the date of receipt of such revenues by the Board of the indenture trustee. Such pledge shall be effective as provided in the indenture without physical delivery of the revenues to the Board or to the indenture trustee.

"PLEDGED REVENUES

"44. Bond redemption and interest payments shall, to the extent provided in the resolution or indenture, constitute a first, direct and exclusive charge and lien on all revenues received from the use and operation of the facility, and on any sinking or other funds created therefrom. All such revenues, together with interest

thereon, shall constitute a trust fund for the security and payment of such bonds and except as and to the extent provided in the indenture with respect to the payment therefrom of expenses for other purposes including administration, operation, maintenance, improvements or extensions of the facilities or other purposes shall not be used or pledged for any other purpose so long as such bonds, or any of them, are outstanding and unpaid.

"REMEDIES

"45. The holder of any bond may for the equal benefit and protection of all holders of bonds similarly situated: (1) by mandamus or other appropriate proceedings require and compel the performance of any of the duties imposed upon the Board or assumed by it, its officers, agents or employees under the provisions of any indenture, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction or insurance of the facilities, or in connection with the collection, deposit, investment, application and disbursement of the revenues derived from the operation and use of the facilities, or in connection with the deposit, investment and disbursement of the proceeds received from the sale of bonds; or (2) by action or suit in a court of competent jurisdiction of any signatory party require the Authority to account as if it were the trustee of an express trust, or enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds.

"ARTICLE X

"EQUIPMENT TRUST CERTIFICATES

"POWER

"46. The Board shall have power to execute agreements, leases and equipment trust certificates with re-

spect to the purchase of facilities or equipment such as cars, trolley buses and motor buses, or other craft, in the form customarily used in such cases and appropriate to effect such purchase, and may dispose of such equipment trust certificates in such manner as it may determine to be for the best interests of the Authority. Each vehicle covered by an equipment trust certificate shall have the name of the owner or lessor plainly marked upon both sides thereof, followed by the words 'Owner and Lessor'.

"PAYMENTS

"47. All monies required to be paid by the Authority under the provisions of such agreements, leases and equipment trust certificates shall be payable solely from the revenue to be derived from the operation of the transit system or from such grants, loans, appropriations or other revenues, as may be available to the Board under the provisions of this Title. Payment for such facilities or equipment, or rentals thereof, may be made in installments, and the deferred installments may be evidenced by equipment trust certificates as aforesaid, and title to such facilities or equipment may not vest in the Authority until the equipment trust certificates are paid.

"PROCEDURE

"48. The agreement to purchase facilities or equipment by the Board may direct the vendor to sell and assign the equipment to a bank or trust company, duly authorized to transact business in any of the signatory States, or to the Housing and Home Finance Administrator, as trustee, lessor or vendor, for the benefit and security of the equipment trust certificates and may direct the trustee to deliver the faciliies and equipment to one or more designated officers of the Board and may authorize the trustee simultaneously therewith to execute and deliver a lease of the facilities or equipment to the Board.

"AGREEMENTS AND LEASES

"49. The agreements and leases shall be duly acknowledged before some person authorized by law to take acknowledgements of deeds and in the form required for acknowledgement of deeds and such agreements, leases, and equipment trust certificates shall be authorized by resolution of the Board and shall contain such covenants, conditions and provisions as may be deemed necessary or appropriate to insure the payment of the equipment trust certificates from the revenues to be derived from the operation of the transit system and other funds.

"The covenants, conditions and provisions of the agreements, leases and equipment trust certificates shall not conflict with any of the provisions of any resolution or trust agreement securing the payment of bonds or other obligations of the Authority then outstanding or confiict with or be in derogation of the rights of the holders of any such bonds or other obligations.

"LAW GOVERNING

"50. The equipment trust certificates issued hereunder shall be governed by Laws of the District of Columbia and for this purpose the chief place of business of the Authority shall be considered to be the District of Columbia. The filing of any documents required or permitted to be filed shall be governed by the Laws of the District of Columbia.

"ARTICLE XI

"OPERATION OF FACILITIES

"OPERATION BY CONTRACT OR LEASE

"51. The Authority shall not perform transit service, nor any of the functions, such as maintenance of equipment and right of way normally associated with the providing of such service, with any transit facilities owned or controlled by it but shall provide for the per-

formance of transit service with such facilities by contract or contracts with private transit companies, private railroads, or other persons. Any facilities and properties owned or controlled by the Authority, other than those utilized in performing transit service, may be operated by the Authority or by others pursuant to contract or lease as the Board may determine. All operations of such facilities and properties by the Authority and by its Contractor and lessees shall be within the Zone.

"THE OPERATING CONTRACT

"52. Without limitation upon the right of the Board to prescribe such additional terms and provisions as it may deem necessary and appropriate, the operating contract shall;

"(a) specify the services and functions to be performed by the Contractor;

"(b) provide that the Contractor shall hire, supervise and control all personnel required to perform the services and functions assumed by it under the operating contract and that all such personnel shall be employees of the Contract or and not of the Authority;

"(c) require the Contractor to assume the obligations of the labor contract or contracts of any transit company which may be acquired by the Authority and assume the pension obligations of any such transit company;

"(d) require the Contractor to comply in all respects with the labor policy set forth in Article XIV of this Title;

"(e) provide that no transfer of ownership of the capital stock, securities or interests in any Contractor, whose principal business is the operating contract, shall be made without written approval of the Board and the certificates or other instruments representing such stock, securities or interests shall contain a statement of this restriction;

"(f) provide that the Board shall have the sole authority to determine the rates or fares to be charged, the routes to be operated and the service to be furnished;

"(g) specify the obligations and liabilities which are to be assumed by the Contractor and those which are to be the responsibility of the Authority;

"(h) provide for an annual audit of the books and accounts of the Contractor by an independent certified public accountant to be selected by the Board and for such other audits, examinations and investigations of the books and records, procedures and affairs of the Contractor at such times and in such manner as the Board shall require, the cost of such audits, examinations and investigations to be borne as agreed by the parties in the operating contract; and

"(i) provide that no operating contract shall be entered into for a term in excess of five years; provided, that any such contract may be renewed for successive terms, each of which shall not exceed five years. Any such operating contract shall be subject to termination by the Board for cause only.

"COMPENSATION FOR CONTRACTOR

"53. Compensation to the Contractor under the operating contract may, in the discretion of the Board, be in the form of (1) a fee paid by the Board to the Contractor for services, (2) a payment by the Contractor to the Board for the right to operate the system, or (3) such other arrangement as the Board may prescribe; provided, however, that the compensation shall bear a reasonable relationship to the benefits to the Authority and to the estimated costs the Authority would incur in directly performing the functions and duties delegated under the operating contract; and provided, further, that no such contract shall create any right in the Contractor (1) to make or change any rate or fare or alter or change the service specified in the contract to be provided or (2) to seek judicial relief by any form of original action, review or other proceedings from any rate or fare or service prescribed by the Board. Any assertion, or attempted assertion, by the Contractor of the right to make or change any rate or fare or service prescribed by

the Board shall constitute cause for termination of the operating contract. The operating contract may provide incentives for efficient and economical management.

"SELECTION OF CONTRACTOR

"54. The Board shall enter into an operating contract only after formal advertisement and negotiations with all interested and qualified parties, including private transit companies rendering transit service within the Zone; provided, however, that, if the Authority acquires transit facilities from any agency of the federal or District of Columbia governments, in accordance with the provisions of Article VII, Section 20 of this Title, the Authority shall assume the obligations of any operating contract which the transferor agency may have entered into.

"ARTICLE XII

"COORDINATION OF PRIVATE AND PUBLIC FACILITIES

"DECLARATION OF POLICY

"55. It is hereby declared that the interest of the public in efficient and economical transit service and in the financial well-being of the Authority and of the private transit companies requires that the public and private segments of the regional transit system be operated, to the fullest extent possible, as a coordinated system without unnecessary duplicating service.

"IMPLEMENTATION OF POLICY

"56. In order to carry out the legislative policy set forth in Section 55 of this Article XII

"(a) The Authority—

"(1) except as herein provided, shall not, directly or through a Contractor, perform transit service by bus or similar motor vehicles;

"(2) shall, in cooperation with the private carriers and WMATC, coordinate to the fullest extent practicable, the schedules for service performed by its facilities with the schedules for service performed by private carriers; and

"(3) shall enter into agreements with the private carriers to establish and maintain, subject to approval by WMATC, through routes and joint fares and provide for the division thereof, or, in the absence of such agreements, establish and maintain through routes and joint fares in accordance with orders issued by WMATC directed to the private carriers when the terms and conditions for such through service and joint fares are acceptable to it.

"(b) The WMATC, upon application, complaint, or upon its own motion, shall—

"(1) direct private carriers to coordinate their schedules for service with the schedules for service performed by facilities owned or controlled by the Authority;

"(2) direct private carriers to improve or extend any existing services or provide additional service over additional routes;

"(3) authorize a private carrier, pursuant to agreement between said carrier and the Authority, to establish and maintain through routes and joint fares for transportation to be rendered with facilities owned or controlled by the Authority if, after hearing held upon reasonable notice, WMATC finds that such through routes and joint fares are required by the public interest; and

"(4) in the absence of such an agreement with the Authority, direct a private carrier to establish and maintain through routes and joint fares with the Authority, if, after hearing held upon reasonable notice, WMATC finds that such through service and joint fares are required by the public interest; provided, however, that no such order, rule or regulation of WMATC shall be construed to require the

Authority to establish and maintain any through route and joint fare.

"(c) WMATC shall not authorize or require a private carrier to render any service, including the establishment or continuation of a joint fare for a through route service with the Authority which is based on a division thereof between the Authority and private carrier which does not provide a reasonable return to the private carrier, unless the carrier is currently earning a reasonable return on its operation as a whole in performing transportation subject to the jurisdiction of WMATC. In determining the issue of reasonable return, WMATC shall take into account any income attributable to the carrier, or to any corporation, firm or association owned in whole or in part by the carrier, from the Authority whether by way of payment for services or otherwise.

"(d) If the WMATC is unable, through the exercise of its regulatory powers over the private carriers granted in paragraph (b) hereof or otherwise, to bring about the requisite coordination of operations and service between the private carriers and the Authority, the Authority may in the situations specified in paragraph (b) hereof, cause such transit service to be rendered by its Contractor by bus or other motor vehicle, as it shall deem necessary to effectuate the policy set forth in Section 55 hereof. In any such situation, the Authority, in order to encourage private carriers to render bus service to the fullest extent practicable, may, pursuant to agreement, make reasonable subsidy payments to any private carrier.

"RIGHTS OF PRIVATE CARRIERS UNAFFECTED

"57. Nothing in this Title shall restrict or limit such rights and remedies, if any, that any private carrier may have against the Authority arising out of acts done or actions taken by the Authority hereunder. In the event any court of competent jurisdiction shall determine that the Authority has unlawfully infringed any rights of any private carrier or otherwise caused or permitted any private carrier to suffer legally cognizable in-

jury, damages or harm and shall award a judgment therefor, such judgment shall constitute a lien against any and all of the assets and properties of the Authority.

"FINANCIAL ASSISTANCE TO PRIVATE CARRIERS

"58. (a) The Board may accept grants from and enter into loan agreements with the Housing and Home Finance Administrator, pursuant to the provisions of the Urban Mass Transportation Act of 1964 (78 Stat. 302), or with any successor agency or under any law of similar purport, for the purpose of rendering financial assistance to private carriers.

"(b) An application by the Board for any such grant or loan shall be based on and supported by a report from WMATC setting forth for each private carrier to be assisted (1) the equipment and facilities to be acquired, constructed, reconstructed, or improved, (2) the service proposed to be rendered by such equipment and facilities, (3) the improvement in service expected from such facilities and equipment, (4) how the use of such facilities and equipment will be coordinated with the transit facilities owned by the Authority, (5) the ability of the affected private carrier to repay any such loans or grants and (6) recommend [sic] terms for any such loans or grants.

"(c) Any equipment or facilities acquired, constructed, reconstructed or improved with the proceeds of such grants or loans shall be owned by the Authority and may be made available to private carriers only by lease or other agreement which contain [sic] provisions acceptable to the Housing and Home Finance Administrator assuring that the Authority will have satisfactory continuing control over the use of such facilities and equipment.

"ARTICLE XIII

"JURISDICTION; RATES AND SERVICE

"WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

"59. Except as provided herein, this Title shall not affect the functions and jurisdiction of WMATC, as granted by Titles I and II of this Compact, over the transportation therein specified and the persons engaged therein and the Authority shall have no jurisdiction with respect thereto.

"PUBLIC FACILITIES

"60. Service performed by transit facilities owned or controlled by the Authority, and the rates and fares to be charged for such service, shall be subject to the sole and exclusive jurisdiction of the Board and, notwithstanding any other provision in this Compact contained, WMATC shall have no authority with respect thereto, or with respect to any contractor in connection with the operation by it of transit facilities owned or controlled by the Authority. The determinations of the Board with respect to such matters shall not be subject to judicial review nor to the processes of any court.

"STANDARDS

"61. Insofar as practicable, and consistent with the provision of adequate service at reasonable fares, the rates and fares and service shall be fixed by the Board so as to result in revenues which will:

"(a) pay the operating expenses and provide for repairs, maintenance and depreciation of the transit system owned or controlled by the Authority;

"(b) provide for payment of all principal and interest on outstanding revenue bonds and other obligations and for payment of all amounts to sinking funds and other funds as may be required by the terms of any indenture or loan agreement;

"(c) provide for the purchase, lease or acquisition of rolling stock, including provisions for interest, sinking funds, reserve funds, or other funds required for payment of any obligations incurred by the Authority for the acquisition of rolling stock; and

"(d) provide funds for any purpose the Board deems necessary and desirable to carry out the purposes of this Title.

"HEARINGS

"62. (a) The Board shall not make or change any fare or rate, nor establish or abandon any service except after holding a public hearing with respect thereto.

"(b) Any signatory, any political subdivision thereof, any agency of the federal government and any person, firm or association served by or using the transit facilities of the Authority and any private carrier may file a request with the Board for a hearing with respect to any rates or charges made by the Board or any service rendered with the facilities owned or controlled by the Authority. Such request shall be in writing, shall state the matter on which a hearing is requested and shall set forth clearly the matters and things on which the request relies. As promptly as possible after such a request is filed, the Board, or such officer or employee as it may designate, shall confer with the protestant with respect to the matters complained of. After such conference, the Board, if it deems the matter meritorious and of general significance, may call a hearing with respect to such request.

"(c) The Board shall give at least thirty days' notice for all hearings. The notice shall be given by publication in a newspaper of daily circulation throughout the Zone and such notice shall be published once a week for two successive weeks. The notice shall start with the day of first publication. In addition, the Board shall post notices of the hearing in its offices, all stations and terminals, and in all of its vehicles and rolling stock in revenue service.

"(d) Prior to calling a hearing on any matter specified in this section, the Board shall prepare and file at its main

office and keep open for public inspection its report relating to the proposed action to be considered at such hearing. Upon receipt by the Board of any report submitted by WMATC, in connection with a matter set for hearing, pursuant to the provisions of Section 63 of this Article XIII, the Board shall file such report at its main office and make it available for public inspection. For hearings called by the Board pursuant to paragraph (b), above, the Board also shall cause to be lodged and kept open for public inspection the written request upon which the hearing is granted and all documents filed in support thereof.

"REFERENCE OF MATTERS TO WMATC

"63. To facilitate the attainment of the public policy objectives for operation of the publicly and privately owned or controlled transit facilities as stated in Article XII, Section 55, prior to the hearings provided for by Section 62 hereof—

"(a) The Board shall refer to WMATC for its consideration and recommendations, any matter which the Board considers may affect the operation of the publicly and privately owned or controlled transit facilities as a coordinated regional transit system and any matter for which the Board has called a hearing, pursuant to Section 62 of this Article XIII, except that temporary or emergency changes in matters affecting service shall not be referred; and

"(b) WMATC, upon such reference of any matter to it, shall give the referred matter preference over any other matters pending before it and shall, as expeditiously as practicable, prepare and transmit its report thereon to the Board. The Board may request WMATC to reconsider any part of its report or to make any supplemental reports it deems necessary. All of such reports shall be advisory only.

"(c) Any report submitted by WMATC to the Board shall consider, without limitation, the probable effect of the matter or proposal upon the operation of the publicly and privately owned or controlled transit facilities as a

coordinated regional system, passenger movements, fare structures, service and the impact on the revenues of both the public and private facilities.

"ARTICLE XIV

"LABOR POLICY

"CONSTRUCTION

"64. The Board shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Authority or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project, which contract shall be deemed to be a contract of the character specified in Section 103 of the Contract Work Hours Standards Act (76 Stat. 357), as now or as may hereafter be in effect. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)). The requirements of this section shall also be applicable with

respect to the employment of laborers and mechanics in the construction, alteration or repair, including painting and decorating, of the transit facilities owned or controlled by the Authority where such activities are performed by a Contractor pursuant to agreement with the operator of such facilities.

"EQUIPMENT AND SUPPLIES

"65. Contracts for the manufacture or furnishing of materials, supplies, articles and equipment shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.), as now or as may hereafter be in effect.

"OPERATIONS

"66. It shall be a condition of the operation of the transit facilities owned or controlled by the Authority that the provisions of section 10(c) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1609(c)) shall be applicable to any contract or other arrangement for the operation of such facilities.

"ARTICLE XV

"RELOCATION ASSISTANCE

"RELOCATION PROGRAM AND PAYMENTS

"67. Section 7 of the Urban Mass Transportation Act of 1964, and as the same may from time to time be amended, and all regulations promulgated thereunder, are hereby made applicable to individuals, families, business concerns and nonprofit organizations displaced from real property by actions of the Authority without regard to whether financial assistance is sought by or extended to the Authority under any provision of that Act; provided, however, that in the event real property is acquired for the Authority by an agency of the federal government, or by a State or local agency or instru-

mentality, the Authority is authorized to reimburse the acquiring agency for relocation payments made by it.

"RELOCATION OF PUBLIC OR PUBLIC UTILITY FACILITIES

"68. Notwithstanding the provisions of Section 67 of this article XV, any highway or other public facility or any facilities of a public utility company which will be dislocated by reason of a project deemed necessary by the Board to effectuate the authorized purposes of this Title shall be relocated if such facilities are devoted to a public use, and the reasonable cost of relocation, if substitute facilities are necessary, shall be paid by the Board from any of its monies.

"ARTICLE XVI

"GENERAL PROVISIONS

"CREATION AND ADMINISTRATION OF FUNDS

"69. (a) The Board may provide for the creation and administration of such funds as may be required. The funds shall be disbursed in accordance with rules established by the Board and all payments from any fund shall be reported to the Board. Monies in such funds and other monies of the Authority shall be deposited, as directed by the Board, in any state or national bank located in the Zone having a total paid-in capital of at least one million dollars ($1,000,000). The trust department of any such state or national bank may be designated as a depositary to receive any securities acquired or owned by the Authority. The restriction with respect to paid-in capital may be waived for any such bank which agrees to pledge federal securities to protect the funds and securities of the Authority in such amounts and pursuant to such arrangements as may be acceptable to the Board.

"(b) Any monies of the Authority may, in the discretion of the Board and subject to any agreement or covenant between the Authority and the holders of any of its

obligations limiting or restricting classes of investments, be invested in bonds or other obligations of, or guaranteed as to interest and principal by, the United States, Maryland, Virginia or the political subdivisions or agencies thereof.

"ANNUAL INDEPENDENT AUDIT

"70. (a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the Authority. The audit shall be made by qualified certified public accountants selected by the Board, who shall have no personal interest direct or indirect in the financial affairs of the Authority or any of its officers or employees. The report of audit shall be prepared in accordance with generally accepted auditing principles and shall be filed with the Chairman and other officers as the Board shall direct. Copies of the report shall be distributed to each Director, to the Congress, to the Board of Commissioners of the District of Columbia, to the Governors of Virginia and Maryland, to the Washington Suburban Transit Commission, to the Northern Virginia Transportation Commission and to the governing bodies of the political subdivisions located within the Zone which are parties to commitments for participation in the financing of the Authority and shall be made available for public distribution.

"(b) The financial transactions of the Board shall be subject to audit by the United States General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Board are kept.

"(c) Any Director, officer or employee who shall refuse to give all required assistance and information to the accountants selected by the Board or who shall refuse to submit to them for examination such books, documents, records, files, accounts, papers, things or property as may be requested shall, in the discretion of the Board forfeit his office.

"REPORTS

"71. The Board shall make and publish an annual report on its programs, operations and finances, which shall be distributed in the same manner provided by Section 70 of this Article XVI for the report of annual audit. It may also prepare, publish and distribute such other public reports and informational materials as it may deem necessary or desirable.

"INSURANCE

"72. The Board may self-insure or purchase insurance and pay the premiums therefore against loss or damage to any of its properties; against liability for injury to persons or property; and against loss of revenue from any cause whatsoever. Such insurance coverage shall be in such form and amount as the Board may determine, subject to the requirements of any agreement arising out of issuance of bonds or other obligations by the Authority.

"PURCHASING

"73. Contracts for the construction, reconstruction or improvement of any facility when the expenditure required exceeds ten thousand dollars ($10,000) and contracts for the purchase of supplies, equipment and materials when the expenditure required exceeds two thousand five hundred dollars ($2,500) shall be advertised and let upon sealed bids to the lowest responsible bidder. Notice requesting such bids shall be published in a manner reasonably likely to attract prospective bidders, which publication shall be made at least ten days before bids are received and in at least two newspapers of general circulation in the Zone. The Board may reject any and all bids and readvertise in its discretion. If after rejecting bids the Board determines and resolves that, in its opinion, the supplies, equipment and materials may be purchased at a lower price in the open market, the Board may give each responsible bidder an opportunity to negotiate a price and may proceed to purchase the supplies,

equipment and materials in the open market at a negotiated price which is lower than the lowest rejected bid of a responsible bidder, without further observance of the provisions requiring bids or notice. The Board shall adopt rules and regulations to provide for purchasing from the lowest responsible bidder when sealed bids, notice and publication are not required by this section. The Board may suspend and waive the provisions of this section requiring competitive bids whenever:

"(a) the purchase is to be made from or the contract is to be made with the federal or any State government or any agency or political subdivision thereof or pursuant to any open end bulk purchase contract of any of them;

"(b) the public exigency requires the immediate delivery of the articles;

"(c) only one source of supply is available; or

"(d) the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest.

"RIGHTS OF WAY

"74. The Board is authorized to locate, construct and maintain any of its transit and related facilities in, upon, over, under or across any streets, highways, freeways, bridges and any other vehicular facilities, subject to the applicable laws governing such use of such facilities by public agencies. In the absence of such laws, such use of such facilities by the Board shall be subject to such reasonable conditions as the highway department or other affected agency of a signatory party may require; provided, however, that the Board shall not construct or operate transit or related facilities upon, over, or across any parkways or park lands without the consent of, and except upon the terms and conditions required by, the agency having jurisdiction with respect to such parkways and park lands, but may construct or operate such facilities in a subway under such parkways or park lands upon such reasonable terms and conditions

as may be specified by the agency having jurisdiction with respect thereto.

"COMPLIANCE WITH LAWS, REGULATIONS AND ORDINANCES

"75. The Board shall comply with all laws, ordinances and regulations of the signatories and political subdivisions and agencies thereof with respect to use of streets, highways and all other vehicular facilities, traffic control and regulation, zoning, signs and buildings.

"POLICE

"76. The Board is authorized to employ watchmen, guards and investigators as it may deem necessary for the protection of its properties, personnel and passengers and such employees, when authorized by any jurisdiction within the Zone, may serve as special police officers in any such jurisdiction. Nothing contained herein shall relieve any signatory or political subdivision or agency thereof from its duty to provide police service and protection or to [sic] limit, restrict or interfere with the jurisdiction of or performance of duties by the existing police and law enforcement agencies.

"EXEMPTION FROM REGULATION

"77. Except as otherwise provided in this Title, any transit service rendered by transit facilities owned or controlled by the Authority and the Authority or any corporation, firm or association performing such transit service pursuant to an operating contract with the Authority, shall, in connection with the performance of such service, be exempt from all laws, rules, regulations and orders of the signatories and of the United States otherwise applicable to such transit service and persons, except that laws, rules, regulations and orders relating to inspection of equipment and facilities, safety and testing shall remain in force and effect; provided, however, that the Board may promulgate regulations for the safety of the public and employees not inconsistent with the

applicable laws, rules, regulations or orders of the signatories and of the United States.

"TAX EXEMPTION

"78. It is hereby declared that the creation of the Authority and the carrying out of the corporate purposes of the Authority is in all respects for the benefit of the people of the signatory states and is for a public purpose and that the Authority and the Board will be performing an essential governmental function, including, without limitation, proprietary, governmental and other functions, in the exercise of the powers conferred by this Title. Accordingly, the Authority and the Board shall not be required to pay taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision or upon it activities in the operation and maintenance of any transit facilities or upon any revenues therefrom and the property and income derived therefrom shall be exempt from all federal, State, District of Columbia, municipal and local taxation. This exemption shall include, without limitation, all motor vehicle license fees, sales taxes and motor fuel taxes.

"FREE TRANSPORTATION AND SCHOOL FARES

"79. All laws of the signatories with respect to free transportation and school fares shall be applicable to transit service rendered by facilities owned or controlled by the Authority.

"LIABILITY FOR CONTRACTS AND TORTS

"80. The Authority shall be liable for its contracts and for its torts and those of its Directors, officers, employees and agent committed in the conduct of any proprietary function, in accordance with the law of the applicable signatory (including rules on conflict of laws), but shall not be liable for any torts occurring in the performance of a governmental function. The exclusive remedy for such breach of contracts and torts for which the Authority shall be liable, as herein provided, shall be by suit against the Authority. Nothing contained in this Title shall be construed as a waiver by the District of Columbia, Maryland, Virginia and the counties and cities within the Zone of any immunity from suit.

"JURISDICTION OF COURTS

"81. The United States District Courts shall have original jurisdiction, concurrent with the Courts of Maryland and Virginia, of all actions brought by or against the Authority and to enforce subpoenas issued under this Title. Any such action initiated in a State Court shall be removable to the appropriate United States District Court in the manner provided by Act of June 25, 1948, as amended (28 U.S.C. 1446).

"CONDEMNATION

"82. (a) The Authority shall have the power to acquire by condemnation, whenever in its opinion it is necessary or advantageous to the Authority to do so, any real or personal property, or any interest therein, necessary or useful for the transit system authorized herein, except property owned by the United States, by a signatory, or any political subdivision thereof, or by a private transit company.

"(b) Proceedings for the condemnation of property in the District of Columbia shall be instituted and maintained under the Act of December 23, 1963 (77 Stat. 577-581, D.C.Code 1961, Supp. IV, Sections 1351-1368). Proceedings for the condemnation of property located elsewhere within the Zone shall be instituted and maintained, if applicable, pursuant to the provisions of the Act of August 1, 1888, as amended (25 Stat. 357, 40 U.S.C. 257) and the Act of June 25, 1948 (62 Stat. 935 and 937, 28 U.S.C. 1358 and 1403) or any other applicable Act; provided, however, that if there is no applicable Federal law, condemnation proceedings shall be in

accordance with the provisions of the State law of the signatory in which the property is located governing condemnation by the highway agency of such state. Whenever the words 'real property,' 'realty,' 'land,' 'easement,' 'right-of-way,' or words of similar meaning are used in any applicable federal or state law relating to procedure, jurisdiction and venue, they shall be deemed, for the purposes of this Title, to include any personal property authorized to be acquired hereunder.

"(c) Any award or compensation for the taking of property pursuant to this Title shall be paid by the Authority, and none of the signatory parties nor any other agency, instrumentality or political subdivision thereof shall be liable for such award or compensation.

"ENLARGEMENT AND WITHDRAWAL; DURATION

"83. (a) When advised in writing by the Northern Virginia Transportation Commission or the Washington Suburban Transit Commission that the geographical area embraced therein has been enlarged, the Board, upon such terms and conditions as it may deem appropriate, shall by resolution enlarge the Zone to embrace the additional area.

"(b) The duration of this Title shall be perpetual but any signatory thereto may withdraw therefrom upon two years' written notice to the Board.

"(c) The withdrawal of any signatory shall not relieve such signatory, any transportation district, county or city or other political subdivision thereof from any obligation to the Authority, or inuring to the benefit of the Authority, created by contract or otherwise.

"AMENDMENTS AND SUPPLEMENTS

"84. Amendments and supplements to this Title to implement the purposes thereof may be adopted by legislative action of any of the signatory parties concurred in by all of the others.

"CONSTRUCTION AND SEVERABILITY

"85. The provisions of this Title and of the agreements thereunder shall be severable and if any phrase, clause, sentence or provision of this Title or any such agreement is declared to be unconstitutional or the applicability thereof to any signatory party, political subdivision or agency thereof is held invalid, the constitutionality of the remainder of this Title or any such agreement and the applicability thereof to any other signatory party, political subdivision or agency thereof or circumstance shall not be affected thereby. It is the legislative intent that the provisions of this Title be reasonably and liberally construed.

"EFFECTIVE DATE; EXECUTION

"86. This Title shall be adopted by the signatories in the manner provided by law therefor and shall be signed and sealed in four duplicate original copies. One such copy shall be filed with the Secretary of State of each of the signatory parties or in accordance with laws of the State in which the filing is made, and one copy shall be filed and retained in the archives of the Authority upon its organization. This Title shall become effective ninety days after the enactment of concurring legislation by or on behalf of the District of Columbia, Maryland and Virginia and consent thereto by the Congress and all other acts or actions have been taken, including the signing and execution of the Title by the Governors of Maryland and Virginia and the Commissioners of the District of Columbia."

Section 2. The Commissioners of the District of Columbia are authorized and directed to enter into and execute an amendment to the Compact substantially as set forth above with the States of Virginia and Maryland and are further authorized and directed to carry out and effectuate the terms and provisions of said Title III, and there are hereby authorized to be appropriated out of District of Columbia funds such amounts as are

necessary to carry out the obligations of the District of Columbia in accordance with the terms of the said Title III.

Section 3. (a) To assure interrupted progress in the development of the facilities authorized by the National Capital Transportation Act of 1965, the transfer of the functions and duties of the National Capital Transportation Agency (herein referred to as the Agency) to the Washington Metropolitan Area Transit Authority (herein referred to as the Authority) as required by Section 301 (b) of the National Capital Transportation Act of 1960 shall take place on September 30, 1967.

(b) Upon the effective date of the transfer of functions and duties authorized by subsection (a) of this section, the President is authorized to transfer to the Authority such real and personal property, studies, reports, records, and other assets and liabilities as are appropriate in order that the Authority may assume the functions and duties of the Agency and, further, the President shall make provision for the transfer to the Authority of the unexpended balance of the appropriations, and of other funds, of the Agency for use by the Authority but such unexpended balances so transferred shall be used only for the purpose for which such appropriations were originally made. Subsequent to said effective date, there is authorized to be appropriated to the Department of Housing and Urban Development, for payment to the Authority, any unappropriated portion of the authorization specified in Section 5(a)(1) of the National Capital Transportation Act of 1965. There is also authorized to be appropriated to the District of Columbia out of the general fund of the District of Columbia, for payment to the Authority, any unappropriated portion of the authorization specified in section 5 (a)(2) of such Act. Any such appropriations shall be used only for the purposes for which such authorizations were originally made.

(c) Pending the assumption by the Authority of the functions and duties of the Agency, the Agency is authorized and directed, in the manner herein set forth, fully to cooperate with and assist the Authority, the

Northern Virginia Transportation Commission and the Washington Suburban Transit Commission in the development of plans for the extensions, new lines and related facilities required to expand the basic system authorized by the National Capital Transportation Act of 1965 into a regional system, but, pending such transfer of functions and duties, nothing in this Act shall be construed to impair the performance by the Agency of the functions and duties imposed by the National Capital Transportation Act of 1965.

(d) In order to provide the cooperation and assistance specified in subsection (c) of this section, the Agency is authorized to perform, on a reimbursable basis, planning, engineering and such other services of the Authority, as the Authority may request, or to obtain such services by contract, but all such assistance and services shall be rendered in accordance with policy determinations made by the Authority and shall be advisory only.

(e) Amounts received by the Agency from the Authority as provided in subsection (d) of this section shall be available for expenditure by the Agency in performing services for the Authority.

Section 4. The United States District Court shall have original jurisdiction, concurrent with the Courts of Maryland and Virginia, of all actions brought by or against the Authority and to enforce subpoenas issued pursuant to the provisions of Title III. Any such action initiated in a State court shall be removable to the appropriate United States District Court in the manner provided by the Act of June 25, 1948, as amended (28 U.S.C. 1446).

Section 5. (a) All laws or parts of laws of the United States and of the District of Columbia inconsistent with the provisions of Title III of this Act are hereby amended for the purpose of this Act to the extent necessary to eliminate such inconsistencies and to carry out the provisions of this Act and Title III and all laws or parts of laws and all reorganization plans of the United States are hereby amended and made applicable for the purpose of this Act to the extent necessary to carry out the provisions of this Act and Title III.

(b) Section 202 of the National Capital Transportation Act of 1960 (Public Law 86-669, 74 Stat. 537), as amended by Section 7 of the National Capital Transportation Act of 1965 (Public Law 89-173, 79 Stat. 666) is hereby repealed.

Section 6. (a) The right to alter, amend or repeal this Act is hereby expressly reserved.

(b) The Authority shall submit to Congress and the President copies of all annual and special reports made to the Governors, the Commissioners of the District of Columbia and/or the legislatures of the compacting States.

(c) The President and the Governors or any committees thereof shall have the right to require the disclosure and furnishing of such information by the Authority as they may deem appropriate. Further, the President and Congress or any of its committees shall have access to all books, records and papers of the Authority as well as the right of inspection of any facility used, owned, leased, regulated or under the control of said Authority.

(d) In carrying out the audits provided for in section 70(b) of the Compact the representations of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Board and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, agents, and custodians.

Approved November 6, 1966.

* * * *

TITLE II—INCREASED DISTRICT OF COLUMBIA CONTRIBUTION

Sec. 201. (a) Section 4(a) of the National Capital Transportation Act of 1969 (D.C. Code, sec. 1-1443(a)) is amended (1) by striking out "$216,500,000" and inserting in lieu thereof "$269,700,000", and (2) by striking out "$166,500,000" and inserting in lieu thereof "$219,700,000".

(b) Paragraph (3) of subsection (b) of the first section of the Act of June 6, 1958 (D.C.Code, sec. 9-220(b)(3)) is amended (1) by striking out "$216,500,000" and inserting in lieu thereof "$269,700,000", and (2) by striking out "$166,500,000" and inserting in lieu thereof "$219,700,000".

TITLE III—COMPACT AMENDMENTS

Sec. 301. (a) The Congress hereby consents to amendments to articles I, III, VII, IX, XI, XIV, and XVI of title III of the Washington Metropolitan Area Transit Regulation Compact (D.C.Code, sec. 1-1431 note) substantially as follows:

(1) Section 1(g) of article I is amended to read as follows:

"(g) 'Transit services' means the transportation of persons and their packages and baggage by means of transit facilities between points within the Zone including the transportation of newspapers, express, and mail between such points, and charter service which originates within the Zone but does not include taxicab service or individual-ticket-sales sightseeing operations; and".

(2) Section 5(a) of article III is amended to read as follows:

"5. (a) The Authority shall be governed by a Board of six Directors consisting of two Directors for each signatory. For Virginia, the Directors shall be appointed by the Northern Virginia Transportation Commission; for the District of Columbia by the City Council of the District of Columbia from among its members, the Commissioner and the Assistant to the Commissioner of the District of Columbia; and for Maryland, by the Washington Suburban Transit Commission. In each instance the Director shall be appointed from among the members of the appointing body, except as otherwise provided herein, and shall serve for a term coincident with his term on the body by which he was appointed. A director may be removed or suspended from office only as provided by the law of the signatory from which he was appointed. The appointing authorities shall also appoint an alternate for each Director, who may act only in the absence of the Director for whom he has been appointed an alternate, except that, in the case of the District of Columbia where only one Director and his alternate are present, such alternate may act on behalf of the absent Director. Each alternate shall serve at the pleasure of the appointing authority. In the event of a vacancy in the office of Director or alternate, it shall be filled in the same manner as an original appointment."

(3) Section 21 of article VII is amended to read as follows:

"Temporary Borrowing

"21. The Board may borrow, in anticipation of receipts, from any signatory, the Washington Suburban Transit District, the Northern Virginia Transportation District or any component government thereof, or from any lending institution for any purposes of this title, including administrative expenses. Such loans shall be for a term not to exceed two years and at such rates of interest as shall be acceptable to the Board. The signatories and any such political subdivision or agency may, in its discretion, make such loans from any available money."

(4) Section 35 of article IX is amended to read as follows:

"Interest

"35. Bonds shall bear interest at such rate or rates as may be determined by the Board, payable annually or semiannually."

(5) Section 39 of article IX is amended to read as follows:

"Sale

"39. The Board may fix terms and conditions for the sale or other disposition of any authorized issue of bonds. The Board may sell bonds at less than their par or face value but no issue of bonds may be sold at an aggregate price below the par or face value thereof if such sale would result in a net interest cost to the Authority calculated upon the entire issue so sold in excess of the applicable rate determined by the Board, payable semiannually, computed with relation to the absolute maturity of the bonds according to standard tables of bond values, deducting the amount of any premium to be paid on the redemption of any bonds prior to maturity. All bonds issued and sold pursuant to this title may be sold in such manner, either at public or private sale, as the Board shall determine."

(6) Section 51 of article XI is amended to read as follows:

"Operation by Contract or Lease

"51. Any facilities and properties owned or controlled by the Authority may be operated by the Authority directly or by others pursuant to contract or lease as the Board may determine."

(7) Section 66 of article XIV is amended to read as follows:

"Operations

"66. (a) The rights, benefits, and other employee protective conditions and remedies of section 13(c) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1609(c)), as determined by the Secretary of

Labor shall apply to the operation by the Washington Metropolitan Area Transit Authority of any mass transit facilities owned or controlled by it and to any contract or other arrangement for the operation of transit facilities. Whenever the Authority shall operate any transit facility or enter into any contractual or other arrangements for the operation of such transit facility the Authority shall extend to employees of affected mass transportation systems first opportunity for transfer and appointment as employees of the Authority in accordance with seniority, in any nonsupervisory job in respect to such operations for which they can qualify after a reasonable training period. Such employment shall not result in any worsening of the employee's position in his former employment nor any loss of wages, hours, working conditions, seniority, fringe benefits and rights and privileges pertaining thereto.

"(b) The Authority shall deal with and enter into written contracts with employees as defined in section 152 of title 29, United States Code, through accredited representatives of such employees or representatives of any labor organization authorized to act for such employees concerning wages, salaries, hours, working conditions, and pension or retirement provisions.

"(c) In case of any labor dispute involving the Authority and such employees where collective bargaining does not result in agreement, the Authority shall submit such dispute to arbitration by a board composed of three persons, one appointed by the Authority, one appointed by the labor organization representing the employees, and a third member to be agreed upon by the labor organization and the Authority. The member agreed upon by the labor organization and the Authority shall act as chairman of the board. The determination of the majority of the board of arbitration, thus established shall be final and binding on all matters in dispute. If after a period of ten days from the date of the appointment of the two arbitrators representing the Authority and the labor organization, the third arbitrator has not been selected, then either arbitrator may request the Federal Mediation and Conciliation Service to furnish a list of five

persons from which the third arbitrator shall be selected. The arbitrators appointed by the Authority and the labor organization, promptly after the receipt of such list shall determine by lot the order of elimination, and thereafter each shall in that order alternately eliminate one name until only one name remains. The remaining person on the list shall be the third arbitrator. The term 'labor dispute' shall be broadly construed and shall include any controversy concerning wages, salaries, hours, working conditions, or benefits including health and welfare, sick leave, insurance or pension or retirement provisions but not limited thereto, and including any controversy concerning any differences or questions that may arise between the parties including but not limited to the making or maintaining of collective bargaining agreements, the terms to be included in such agreements, and the interpretation or application of such collective bargaining agreements and any grievance that may arise and questions concerning representation. Each party shall pay one-half of the expenses of such arbitration.

"(d) The Authority is hereby authorized and empowered to establish and maintain a system of pensions and retirement benefits for such officers and employees of the Authority as may be designated or described by resolution of the Authority; to fix the terms of and restrictions on admission to such system and the classifications therein; to provide that persons eligible for admission in such pension system shall not be eligible for admission to, or receive any benefits from, any other pension system (except social security benefits), which is financed or funded, in whole or in part, directly or indirectly by funds paid or appropriated by the Authority to such other pension system, and to provide in connection with such pension system, a system of benefits payable to the beneficiaries and dependents of any participant in such pension system after the death of such participant (whether accidental or otherwise, whether occurring in the actual performance of duty or otherwise, or both) subject to such exceptions, conditions, restrictions and classifications as may be provided by resolution of the

Authority. Such pension system shall be financed or funded by such means and in such manner as may be determined by the Authority to be economically feasible. Unless the Authority shall otherwise determine, no officer or employee of the Authority and no beneficiary or dependent of any such officer or employee shall be eligible to receive any pension or retirement or other benefits both from or under any such pension system and from or under any pension or retirement system established by an acquired transportation system or established or provided for, by or under the provisions of any collective bargaining agreement between the Authority and the representatives of its employees.

"(e) Whenever the Authority acquires existing transit facilities from a public or privately owned utility either in proceeding by eminent domain or otherwise, the Authority shall assume and observe all existing labor contracts and pension obligations. When the Authority acquires an existing transportation system, all employees who are necessary for the operation thereof by the Authority shall be transferred to and appointed as employees of the Authority, subject to all the rights and benefits of this title. These employees shall be given seniority credit and sick leave, vacation, insurance and pension credits in accordance with the records or labor agreements from the acquired transportation system. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired transportation system shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The Authority shall assume the obligations of any transportation system acquired by it with regard to wages, salaries, hours, working conditions; sick leave, health and welfare and pension or retirement provisions for employees. It shall assume the provisions of any collective bargaining agreement between such acquired transportation system and the representatives of its employees. The Authority and the employees, through their representatives for collective bargaining purposes, shall take whatever action may be necessary to have pension trust funds presently under the joint control of the

acquired transportation system and the participating employees through their representative transferred to the trust fund to be established, maintained and administered jointly by the Authority and the participating employees through their representatives. No employee of any acquired transportation system who is transferred to a position with the Authority shall by reason of such transfer be placed in any worse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance or any other benefits, than he enjoyed as an employee of such acquired transportation system."

(8) Section 79 of article XVI is amended to read as follows:

"Reduced Fares

"79. The District of Columbia, the Northern Virginia Transportation District, the Washington Suburban Transit District and the component governments thereof, may enter into contracts or agreements with the Authority to make equitable payments for fares lower than those established by the Authority pursuant to the provisions of article XIII hereof for any specified class or category of riders."

(b) The Commissioner of the District of Columbia is authorized and directed to enter into and execute on behalf of the District of Columbia amendments, substantially as set forth in subsection (a), to title III of the Washington Metropolitan Area Transit Regulation Compact with the States of Virginia and Maryland.

Approved July 13, 1972.

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SUPREME COURT OF THE UNITED STATES

No. 75-909

ENVIRONMENTAL PROTECTION AGENCY, PETITIONER

v.

EDMUND G. BROWN, JR.,
GOVERNOR OF CALIFORNIA, ET AL.; and

ENVIRONMENTAL PROTECTION AGENCY, PETITIONER

v.

ARIZONA, ET AL.

ORDER ALLOWING CERTIORARI.—Filed June 1, 1976

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted. The case is consolidated with Nos. 75-960, 75-1050 and 75-1055 and a total of two hours is allotted for oral argument.

SUPREME COURT OF THE UNITED STATES

No. 75-960

ENVIRONMENTAL PROTECTION AGENCY, PETITIONER

v.

MARYLAND, ET AL.

ORDER ALLOWING CERTIORARI.—Filed June 1, 1976

The petition herein for a writ of certiorari to the United States Court of Appeals for the Fourth Circuit is granted. The case is consolidated with Nos. 75-909, 75-1050 and 75-1055 and a total of two hours is allotted for oral argument.

SUPREME COURT OF THE UNITED STATES

No. 75-1050

STATE AIR POLLUTION CONTROL BOARD, PETITIONER

v.

RUSSELL E. TRAIN, ADMINISTRATOR,
ENVIRONMENTAL PROTECTION AGENCY

ORDER ALLOWING CERTIORARI.—Filed June 1, 1976

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit is granted. The case is consolidated with Nos. 75-909, 75-960 and 75-1055 and a total of two hours is allotted for oral argument.

SUPREME COURT OF THE UNITED STATES

No. 75-1055

RUSSELL E. TRAIN, ADMINISTRATOR,
ENVIRONMENTAL PROTECTION AGENCY, PETITIONER

v.

DISTRICT OF COLUMBIA, ET AL.

ORDER ALLOWING CERTIORARI.—Filed June 1, 1976

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit is granted. The case is consolidated with Nos. 75-909, 75-960 and 75-1050 and a total of two hours is allotted for oral argument.

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